



**MANGALAYATAN
UNIVERSITY**

Learn Today to Lead Tomorrow

Human Resource Management

MGO-2101

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UNIT

1**SCOPE OF HRM IN HOSPITALS**

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STRUCTURE

- 1.1 Learning Objective
- 1.2 Definition of Hospital HRM
- 1.3 Importance of HRM
- 1.4 Nature of HR in Hospitals
- 1.5 Objective of HR in Hospitals
- 1.6 Functions of HRM
- 1.7 Principles of HRM
- 1.8 Functions and Role of HR Manager
- 1.9 Summary
- 1.10 Review Questions

1.1 LEARNING OBJECTIVE

After completion of this unit, you should be able to:

- Definition of hospital HRM
- Importance of hospital HRM
- Nature of hospital HRM
- Objective of hospital HRM
- Functions of hospital HRM
- Principles of hospital HRM

1.2 DEFINITION OF HOSPITAL HRM

Human Resource Management (HRM or HR) is that the management of human resources. It's designed to maximize worker performance in commission of associate degree employer's strategic objectives. Unit of time is primarily involved with the management of individuals at intervals organizations that specialize in policies and on systems. Unit of time departments square measure to blame for overseeing employee-benefits style, worker accomplishment, coaching and development, performance appraisal, and pleasing (e.g., managing pay and profit systems). Unit of time additionally issues itself with structure modification and industrial relations,

that is, the leveling of structure practices with necessities arising from dialogue and from governmental laws.

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1.3 IMPORTANCE OF HRM

An organization cannot build a decent team of operating professionals while not good Human Resources. The key functions of the Human Resources Management (HRM) team embrace recruiting folks, coaching them, performance appraisals, motivating staff additionally as geographic point communication, geographic point safety, and far a lot of. The useful effects of those functions square measure mentioned here:

Recruitment and coaching

This is one amongst the main responsibilities of the human resource team. The unit of time managers come back up with plans and techniques for hiring the proper reasonable folks. They style the factors that are best suited to a selected verbal description. Their different tasks associated with accomplishment embrace formulating the obligations of worker and also the scope of tasks assigned to him or her. Supported these 2 factors, the contract of worker with the corporate is ready. Once required, they additionally offer coaching to the workers in line with the necessities of the organization. Thus, the employees' members get the chance to sharpen their existing skills or develop specialized skills that successively, can facilitate them to require up some new roles.

Performance Appraisals

HRM encourages the folks operating in organization, to figure in line with their potential and provides them suggestions that may facilitate them to bring forth improvement in it. The team communicates with the employees one by one from time to time and provides all the required data relating to their performances and additionally defines their individual roles. This is often useful because it permits them to create an overview of their anticipated goals in abundant clearer terms and thereby, helps them execute the goals with very best efforts. Performance appraisals, once taken on a daily basis, encourage the workers.

Maintaining Work Atmosphere

This is an important side of HRM as a result of the performance of a personal in organization is essentially driven by the work atmosphere or work culture that prevails at the geographic point. An honest operating condition is one amongst the advantages that the workers will expect from economical human resource team. Safe, clean healthy surroundings will bring out the simplest in a worker. A friendly atmosphere provides the employees members' job satisfaction additionally.

Managing Disputes

In organization, there square measure many problems on that disputes could arise between the workers and also the employers. You'll be able to say conflicts square measure virtually inevitable. In such a situation, it's the human resource department that acts as an advisor and negotiator to delineate those problems in a good manner. They initial hear the grievances of the workers. Then they are available up with appropriate solutions to type them out. In different words, they take timely action and forestall things from going out of hands.

Developing packaging

The responsibility of building smart packaging lies with the HRM to an excellent extent. They organize business conferences, seminars and numerous official gatherings on behalf of the corporate so as to create up relationships with different business sectors. Sometimes, the unit of time department plays a lively role in getting ready the business and selling plans for the organization too.

Any organization, while not a correct setup for HRM is certain to suffer from serious issues whereas managing its regular activities. For this reason, today, firms should place lots of effort and energy into fixing a robust and effective HRM.

1.4 NATURE OF HR IN HOSPITALS

For any organization to perform effectively, it should have resource of men (Human Resource), money, materials and machinery. The resources by themselves cannot fulfill the objectives of associate degree organization, they have to be collected, co-ordinate and utilized through human resources. And, the effective management of human resources is additionally very important. Hence, Human Resource Management (HRM) has emerged as a significant performs in organizations. Human Resource Management is that the structure perform that deals with problems associated with folks like compensation, hiring, performance management, organization development, safety, wellness, benefits, worker motivation, communication, administration, and coaching.

The administrative discipline of hiring and developing staff is in order that they become a lot of valuable to the organization.

Human Resource management includes:

- conducting job analyses,
- designing personnel wants, and accomplishment,
- choosing the proper folks for the task,
- familiarizing and coaching,
- decisive and managing wages and salaries,

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- providing edges and incentives,
- evaluative performance,
- breakdown disputes,
- Act with all staff the least bit levels. Erst referred to as personnel management.
- Maintaining awareness of and compliance with native, state and federal labor laws.
- These also are referred to as functions of human resource management for the aim of impact you use of human resource.

Human Resource Management involves management functions like designing, organizing, directional and dominant.

- It involves procurance, development, maintenance of human resource
- It helps to attain individual, structure and social objectives
- Human Resource Management could be a multidisciplinary subject. It includes the study of management, psychology, communication, economic science and social science.
- It involves unity and team work.
- It could be a continuous method.

Why-Is Human Resource Management necessary to any or all Managers? Why are units these ideas and techniques necessary to any or all managers? 'Maybe it's easier to answer this by listing a number of the personnel mistakes you do not wish to form whereas managing. For instance, you do not wish to:

Hire the incorrect person for the task

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1.5 OBJECTIVE OF HR IN HOSPITALS

Staffing and Placement

It is essential that a health care facility is staffed with appropriate personnel. The 60 minutes manager organizes and conducts the choice of acceptable candidates for such positions. She advises management on worker pay and advantages for each recruits and existing staff. The 60 minutes manager might make sure that newly-hired personnel acquire labor certificates from the U.S. Department of Labor and work visas from U.S. Immigration and Customs social control.

Legal analysis on Health Care

The role of the 60 minutes manager extends to analysis on rules and laws governing the health care system in respect to its staff. This might need operating with the lawyers of the hospital. Statutes like The Medicare and Medicaid Patient Protection

Act of 1987 are vital laws with that a health care facility ought to be well-versed. Legal contracts with medical practitioners on accomplishment and retention conjointly want shut scrutiny by the 60 minutes manager and his department. This avoids things wherever a facility is subjected to penalties for violations of health-related laws, or disputes arising from worker contracts.

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Management of staff

A health care facility wants the experience of qualified and reliable members to make sure adequate delivery of health care services, limit complaints from patients, and forestall sanctions from authorities. The 60 minutes container is guilty of evaluating existing staff in a corporation. He should make sure that the performance of recruits and staff is up to par. he's conjointly guilty of addressing disputes arising between staff and management and finding operating solutions to handle such disputes.

Decision-Making

In the Nineteen Nineties, facility management more and more enclosed the 60 minutes department within the decision-making and coming up with method. This was a paradigm shift from an earlier role confined to record-keeping and legal auditing. The inclusion of the 60 minutes department in management permits the manager to handle worker considerations. Once such matters are addressed at an early stage it limits employees' disputes and unrest. The 60 minutes container is additionally tasked with the responsibility of developing a robust, reliable team and establishing management methods to control the work force that ensures a stronger organized health care system.

Societal objective

It is to be socially accountable to the requirements and challenges of society whereas minimizing the negative impact of such demands upon the organization. The failure of organizations to use their resources for society's profit might lead to restrictions. For instance, societies might pass laws that limit human resource choices.

Organizational objective

It is to recognize that HRM exists to contribute to structure effectiveness. HRM isn't a finish in itself; it's solely a way to help the organization with its primary objectives. Merely explicit, the department exists to serve the remainder of the organization.

Functional objective

To maintain the department's contribution at a level acceptable to the organization's wants. Resources are wasted once HRM is a lot of or less subtle than the organization

demands. A department's level of service should be acceptable for the organization it serves.

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Personal objective

To assist staff in achieving their personal goals, a minimum of two that degree as these goals enhance the individual's contribution to the organization. Personal objectives of staff should be met if staffs are to be maintained, maintained and actuated. Otherwise, worker performance and satisfaction might decline, and staff might leave the organization.

1.6 FUNCTIONS OF HRM

Human Resource Management could be a management operates involved with hiring, motivating, associate degreeed maintaining work force in an organization. Human resource management deals with problems associated with staff like hiring, training, development, compensation, motivation, communication, and administration. Human resource management ensures satisfaction of staff and most contribution of staff to the action of organizational objectives.

According to Armstrong (1997), Human Resource Management is outlined as "a strategic approach to feat, developing, managing, motivating and gaining the commitment of the organization's key resource – those that add and for it."

Functions of Human Resource Management

Human Resource Management functions are classified in following 3 classes.

1. Social control Functions,
2. Operative Functions, and
3. Informative Functions

The social control Functions of Human Resource Management area unit as follows:

Designing

In this operate of HRM, the amount and sort of staff required to accomplish organizational goals is set. Analysis is a vital a part of this operate, info is collected and analyzed to spot current and future human resource desires and to forecast dynamical values, attitude, and behavior of staff and their impact on organization.

Organizing

In associate degree organization tasks area unit allotted among its members, relationships area unit known, and activities area unit integrated towards a standard objective. Relationships area unit established among the staff so they will put together contribute to the attainment of organization goal.

Directing

Activating staff at totally different level and creating them contribute most to the organization is feasible through correct direction and motivation. Recording the utmost potentialities of the staff is feasible through motivation and command.

Controlling

After designing, organizing, and leading, the particular performance of staff is checked, verified, and compared with the plans. If the particular performance is found deviated from the set up, management measures area unit needed to be taken.

The Operative Functions of Human Resource Management area unit as follows:

Recruitment and choice

Recruitment of candidates is that the operate preceding the choice, that brings the pool of prospective will dates for the organization so the management can choose the proper candidate from this pool.

Job Analysis and style

Job analysis is that the method of describing the character of employment and specifying the human needs like qualification, skills, and work expertise to perform that job. Job style aims at outlining and organizing tasks, duties, and responsibilities into one unit of labor for the action of sure objectives.

Performance Appraisal

Human resource professionals area unit needed to perform this operate to make sure that the performance of worker is at acceptable level.

Training and Development

This operates of human resource management helps the staff to amass skills and information to perform their jobs effectively. Coaching associate degree development programs area unit union for each new and existing staff. Staff is a unit ready for higher level responsibilities through coaching and development.

Wage and pay Administration

Human resource management determines what's to be acquired totally different form of jobs. Human resource management decides staff compensation which incorporates - wage administration, pay administration, incentives, bonuses, fringe edges, and etc.

Employee Welfare

This operate refers to varied services, benefits, and facilities that area unit provided to staff for his or her well being.

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Maintenance

Human resource is taken into account as quality for the organization. Turnover isn't thought of smart for the organization. Human resource management continuously attempts to keep their best activity staff with the organization.

Labor Relations

This operate refers to the interaction of human resource management with staff World Health Organization area unit painted by a trades union. Staff comes along associate degreeed forms a union to get additional voice in selections poignant wage, benefits, operating condition, etc.

Personnel analysis

Personnel researches are a unit done by human resource management to collect employees' opinions on wages and salaries, promotions, operating conditions, welfare activities, leadership, etc. Such researches help in understanding staff satisfaction, staff turnover, worker termination, etc.

Personnel Record

This operate involves recording, maintaining, and retrieving worker connected info like -application forms, employment history, operating hours, earnings, worker absents and presents, turnover and different information associated with staff.

The informative Functions of Human Resource Management area unit as follows:

Human Resource Management is professional in managing human resources and then will offer recommendation on matters associated with human resources of the organization.

Human Resource Management offers recommendation to:

Advised to high Management

Personnel manager advises the highest management in formulation and analysis of personnel programs, policies, and procedures.

Advised to division Heads

Personnel manager advises the heads of varied departments on matters like personnel designing, job analysis, job design, accomplishment, selection, placement, training, performance appraisal, etc.

1.7 PRINCIPLES OF HRM

HR Principles

There is a unit several principles of Human Resources. Here is a unit eight of them to grasp and apply befittingly to create time unit practices clear and relevant for the longer term.

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Principle #1: achievement to retirement.

HR is all concerning addressing workers from achievement to retirement. It includes hands coming up with, selection, coaching and development, placement, wage and remuneration administration, promotion, transfer, separation, performance appraisal, grievance handling, welfare administration, job analysis and advantage rating, and exit interview. Precisely, it deals with coming up with, organizing, staffing, directing, and dominant of individuals.

Principle #2: folks (men) behind the machine count.

Previously, it absolutely was the machine behind the person that counted. Today, folks are a unit the \$64000 power to drive organizations forward. Machines solely assist folks. Ultimately, the machine is servant to men, not the opposite approach around.

Principle #3: rent for perspective, recruit for skills.

Attitude is that the key to worker engagement and success. Hence, time unit leaders should emphasize perspective instead of expertise. It's higher to rent a replacement job seeker with high perspective and no expertise than one with a rotten perspective and years of expertise. If workers possess a decent perspective, they're going to have the flexibility absorb the information, skills, and talents that area unit essential to perform their tasks effectively within the geographical point.

Principle #4: Appreciate perspective however respect intelligence.

It is true that each perspective and intelligence area unit essential to boost the structure bottom line. If time unit leaders notice it's powerful to urge each, they must opt for perspective over intelligence because it helps accomplish structure goals and objectives.

Principle #5: rent slow, fire fast.

HR leaders should be slow in hiring the proper talent for his or her organizations. They have to search for the proper mental attitude, skill set, and power set in job seekers throughout achievement. If they notice that unhealthy apples entered into their basket, they have to be removed quickly to contain additional injury to their organizations.

Principle #6: Shed quality, wed simplicity.

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People nowadays favor to add flat organizations instead of tall ones. Tall organizations typically have hierarchies with an officialdom mental attitude that doesn't add this context. Info Yers are a unit happy to figure with partners instead of with bosses. Thus shed quality and wed simplicity to realize structure excellence and effectiveness.

Principle #7: time unit leaders are a unit king and queen manufacturers.

Presently, there's a sway globally that time unit leaders area unit king and queen manufacturers. They cannot become kings and queens. They're perceived as people that become ladders for others to climb to higher positions. It's attributable to the roles and responsibilities they undertake. Time unit leaders are a unit masters of their trades, not jacks of alternative trades. They grasp everything concerning time unit, however they don't essentially grasp abundant concerning alternative aspects within the organization. CEOs area unit masters in their own domains and jacks of alternative domains. They masters in their areas and grasp one thing concerning others areas. Thus, time unit leaders should acquire information concerning alternative areas and acquire technical and business acumen to become kings and queens—the chief executives.

Principle #8: To serve is to steer and live.

Mahatma Gandhi once remarked, "The best thanks to end up is to lose yourself within the service of others." time unit leaders should serve folks with pleasure with none pressure. They have to become torchbearers of human capital and information. They have to learn, unlearn, and acquire to remain relevant.

1.8 FUNCTIONS AND ROLE OF HR MANAGER

The Human Resource Manager could be a mid-level position liable for overseeing human resources activities and policies in step with government level direction. They supervise human resources workers additionally as management compensation and edges, worker relations, staffing, training, safety, labor relations, and employment records.

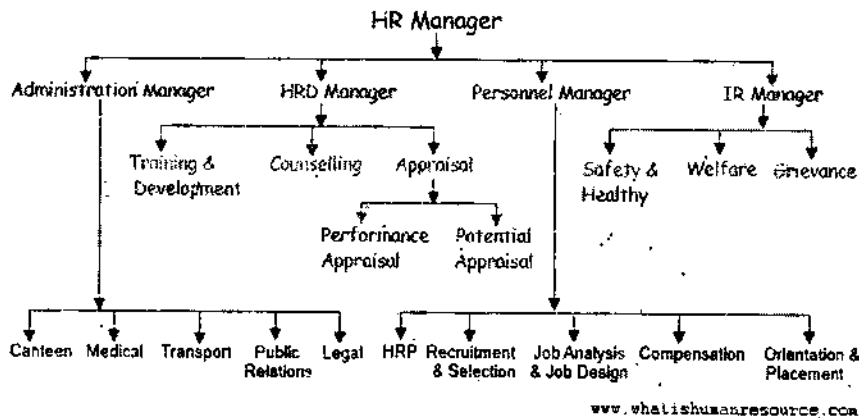
Key responsibilities of Human Resource Manager

Human Resource Manager is one amongst the foremost vital key to open a lock hanging on the door of success in associate degree organization. If associate degree Human Resource Manager is economical enough to handle and to require out best from his team members any organization and may win a lot of from his target goals. Human Resource manager plays associate degree important role in hierarchy, and additionally in between the upper management and low level workers.

Expressed below are major responsibilities of Human Resource Manager:

Scope of HRM in Hospitals

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1.9 SUMMARY

Human Resource Management (HRM or HR) is that the management of human resources. It's designed to maximize worker performance in commission of associate degree employer's strategic objectives.

An organization cannot build a decent team of operating professionals while not good Human Resources. The key functions of the Human Resources Management (HRM) team embrace recruiting folks, coaching them, performance appraisals, motivating staff additionally as geographic point communication, geographic point safety, and far a lot of.

For any organization to perform effectively, it should have resource of men (Human Resource), money, materials and machinery. The resources by themselves cannot fulfill the objectives of associate degree organization, they have to be collected, coordinate and utilized through human resources. And, the effective management of human resources is additionally very important. Hence, Human Resource Management (HRM) has emerged as a significant performs in organizations. Human Resource Management is that the structure perform that deals with problems associated with folks like compensation, hiring, performance management, organization development, safety, wellness, benefits, worker motivation, communication, administration, and coaching.

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The Human Resource Manager could be a mid-level position liable for overseeing human resources activities and policies in step with government level direction. They supervise human resources workers additionally as management compensation and edges, worker relations, staffing, training, safety, labor relations, and employment records.

1.10 REVIEW QUESTIONS

1. What is the definition of hospital HRM?
2. What is the importance of hospital HRM?
3. What is the nature of hospital HRM?
4. What is the objective of hospital HRM?
5. What are the functions of hospital HRM?
6. What are the principles of hospital HRM?

UNIT

2

NOTES

HR PLANNING AND DEVELOPMENT

STRUCTURE

- 2.1 Learning Objective
- 2.2 Significance of HR Planning
- 2.3 Factors Influencing HR Planning
- 2.4 Process of HR Planning
- 2.5 Job Analysis
- 2.6 Recruitment
- 2.7 Selection
- 2.8 Summary
- 2.9 Review Questions

2.1 LEARNING OBJECTIVE

After completion of this unit, you should be able to:

- Describe the significance of HR planning.
- Explain the factors of HR planning.
- Explain the process, job analysis, recruitment and selection.

2.2 SIGNIFICANCE OF HR PLANNING

Human resource coming up with aims at fulfilling the objectives of force demand. It helps to mobilize the recruited resources for the productive activities. The human resource coming up with is a very important method reaching to link business strategy and its operation.

The importance of human resource coming up with is as follows:

Future force desires

Human resource coming up with ensures that individuals are on the market to produce the continued swish operation of a corporation. It means human resource coming up with is considered a tool to assure the long run availableness of force to hold on the structure activities. It determines the long run desires of force in terms of variety and sort.

Handling modification

Human resource coming up with is vital to deal with the modification related to the external environmental factors. It helps assess these human resources through HR inventory and adapts it to changing technological, political, socio-cultural, and economic forces.

Recruitment of Talented Personnel

Another purpose of HR planning is to recruit and select the most capable personnel to fill job vacancies. It determines human resource needs, assesses the available HR inventory level and finally recruits the personnel needed to perform the job.

Development of Human Resources

Human resource planning identifies the skill requirements for various levels of jobs. Then it organizes various training and development campaigns to impart the required skill and ability in employees to perform the task efficiently and effectively.

Proper Utilization of Human Resources

Human resource planning measures that the organization acquires and utilizes the manpower effectively to achieve objectives. Human resource planning helps in assessing and recruiting skilled human resource. It focuses on the optimum utilization of human resource to minimize the overall cost of production.

Uncertainty Reduction

This is associated with reducing the impact of uncertainty which are brought by unsudden changes in processes and procedures of human resource management in the organization.

2.3 FACTORS INFLUENCING HR PLANNING

Political

From a shift in native belief to a amendment in government or maybe a replacement industrial world nation getting into the market, politics influence what quantity funding is accessible, what quantity tax should be paid, salary rates, however markets square measure controlled and also the quality and amount of employees accessible for rent. Once designing ahead, you wish to contemplate probably changes to markets, budgets and convenience of appropriate candidates as results of recent or anticipated political influences. For instance, if an amendment of presidency is feasible within the coming back year, perceive the new administration's priorities in relevance markets, industries and businesses.

Economic

How much cash is accessible for salaries, coaching and instrumentality is that the most immediate concern in human resource designing. However, external social science plays an equally vital role. For instance, folks don't have the maximum amount of cash to pay in an economic downturn and have a tendency to be more selective in what they get or services they use. This suggests some industries, like those manufacturing luxury things or non-essential services, sell less and should even get to lay off some employees. This, in turn, makes the native economy even tougher. Building economic factors into the human resources set up helps to predict what number of workers you'll want and what you'll pay.

Social

Several social factors could influence your unit of time designing, however you wish to require into consideration equalities and variety above all. Wherever there's a transparent discrepancy of 1 group, it's a decent plan to make in ways that open up new opportunities. For instance, if there's a square measure few Hispanic folks in your company compared to numbers within the wider community, verify why this is often the case and what can be done to redress the balance. Strive holding an accomplishment event within the space or conducting a survey of locals, asking if they'd take into account employment at your company and if not, why not.

Technological

New technology brings new skills, so corporations invariably have to remember of proficiencies and coaching wants once designing human resources. New merchandise and services additionally could need recruiting extremely competent workers or coaching existing workers to fulfill the requirement. Certify unit of time managers square measure alert to new instrumentality or data be required so that they will build the specified skills, and presumably regular payment enhancements, into the set up.

Legal

Employment law is that the most important sector of the system that affects human resource designing and it changes all the time. In most cases, there are masses of time to implement changes to policy, because the law will take for a while to require impact. Keep yourself up so far, associated have an employment law specialist accessible to consult if necessary. Employment law changes should be mirrored in company policy and enforced on the bottom by supervisors and managers, thus you ought to incorporate another coaching would like into the human resources set up.

Environmental

Environmental factors would possibly embody wherever your business is found in relevance finding comfortable applicable employees or changes to the setting that

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mean a requirement for additional or fewer workers. a straightforward example of environmental factors touching human resource designing is that the thought of however your workers get to figure safely throughout extreme weather; your set up might have to incorporate the likelihood of work so as to stay everything going.

2.4 PROCESS OF HR PLANNING

Assessing this unit of time capability

Develop a skills catalog for your staff so you've got a transparent understanding of what your workers presently holds. This worker catalog ought to embrace everything from volunteer activities to certifications, of all degrees not simply topics touching on their explicit position. These catalogs are often assessed to hold whether or not a worker is prepared to feature additional responsibility, or to forecast the employee's future development plans.

Forecasting unit of time needs

This step includes projected what the unit of time desires for the long run are supported the strategic goals of the organization. Confine mind you may get to additionally accommodate for external challenges that may have an effect on your organization.

Some inquiries to rise throughout this stage include:

- Which jobs can get to be crammed within the forthcoming period?
- What ability sets can folks need?
- How several workers are needed to fulfill the strategic goals of our organization?
- Is the economy moving our work and skill to attractiveness to new employees?
- How is our community evolving or expected to alter within the upcoming period?

Gap analysis

During this step you may observe wherever your organization is presently, and wherever you would like to be within the future. You may establish things like, the worker count, and also the skills analysis and compare it to what is going to be required to attain your future goal. throughout this section you ought to additionally review your current unit of time practices and establish what you're doing that's helpful and what you'll add, which will assist you attain your goal.

Questions to answer during this stage include:

- What new jobs can we tend to need?
- What new skills can we tend to need?
- Do our gift staff have the mandatory skills?
- Are staff presently aligned to their strengths?
- Are current unit of time practices equal to meet our future goal?

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Developing unit of time methods to support the methods of the organization

There square measure five units of time methods that you simply will follow to fulfill your structure goals.

Restructuring methods

This includes reducing workers, regrouping tasks to form well-designed jobs, and reorganizing work teams to perform additional expeditiously.

Training and development methods

This includes providing these workers with coaching and development opportunities to comprehend new roles within the organization

Recruitment methods

This includes recruiting new hires that have already got the abilities the organization can want within the future.

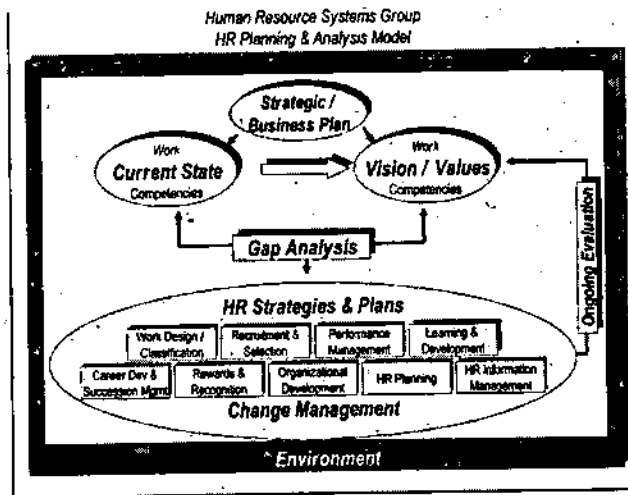
Outsourcing methods

This includes outreaching to external people or organizations to finish bound tasks.

Collaboration methods

This includes collaborating with alternative organizations to be told from however others do things, permit staff to achieve skills and data not antecedently offered in their own organization.

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2.5 JOB ANALYSIS

Job Analysis may be a method to spot and verify intimately the actual job duties and necessities and therefore the relative importance of those duties for a given job. Job Analysis may be a method wherever judgments are a unit created regarding knowledge collected on employment.

The Job; not the person a very important idea of Job Analysis is that the analysis is conducted of the work, not the person. Whereas Job Analysis knowledge is also collected from incumbents through interviews or questionnaires, the merchandise of the analysis may be a description or specifications of the work, not an outline of the person.

Purpose of Job Analysis

The purpose of Job Analysis is to ascertain and document the 'job relatedness' of employment procedures like coaching, selection, compensation, and performance appraisal.

Determining coaching wants

Job Analysis is often utilized in training/"needs assessment" to spot or develop:

- training content
- assessment tests to live effectiveness of coaching
- equipment to be utilized in delivering the coaching
- Methods of coaching (i.e., tiny cluster, computer-based, video, classroom)

Compensation

Job Analysis is often utilized in compensation to spot or determine:

- skill levels

- compensable job factors
- work surroundings (e.g., hazards; attention; physical effort)
- responsibilities (e.g., fiscal; supervisory)
- required level of education (indirectly associated with pay level)

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Selection Procedures

Job Analysis is often utilized in choice procedures to spot or develop:

- job duties that ought to be enclosed in advertisements of vacant positions;
- appropriate pay level for the position to assist verify what pay ought to be offered to a candidate;
- minimum necessities (education and/or experience) for screening applicants;
- interview questions;
- selection tests/instruments (e.g., written tests; oral tests; job simulations);
- applicant appraisal/evaluation forms;
- orientation materials for applicants/new hires

Performance Review

Job Analysis is often utilized in performance review to spot or develop:

- goals and objectives
- performance standards
- evaluation criteria
- length of conditional periods
- duties to be evaluated

Methods of Job Analysis

Several strategies exist that will be used on an individual basis or together. These include:

- review of job classification systems
- incumbent interviews
- supervisor interviews
- expert panels
- structured questionnaires
- task inventories
- check lists
- open-ended questionnaires
- observation
- incumbent work logs

A typical methodology of Job Analysis would be to administer the incumbent an easy form to spot job duties, responsibilities, instrumentation used, work relationships,

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and work surroundings. The finished form would then be accustomed assist the work Analyst WHO would then conduct associate degree interview of the incumbent(s). A draft of the known job duties, responsibilities, equipment, relationships, and work surroundings would be reviewed with the supervisor for accuracy. The work Analyst would then prepare employment description and/or job specifications.

The method that you just might use in Job Analysis can rely on sensible issues like variety of job, range of jobs, range of incumbents, and placement of jobs.

- What Aspects of employment area unit Analyzed?

Job Analysis ought to collect data on the subsequent areas:

- Duties and Tasks the fundamental unit of employment is that the performance of specific tasks and duties. Data to be collected regarding this stuff might include: frequency, duration, effort, skill, complexity, equipment, standards, etc.
- Environment this might have a major impact on the physical necessities to be ready to perform employment. The work surroundings might embrace unpleasant conditions like offensive odors and temperature extremes. There may additionally be definite risks to the incumbent like pernicious fumes, radioactive substances, hostile and aggressive folks, and dangerous explosives.
- Tools and instrumentation some duties and tasks area unit performed mistreatment specific instrumentation and tools. Instrumentation might embrace protecting wear. This stuff ought to be laid out in employment Analysis.
- Relationships supervising given and received. Relationships with internal or external folks.
- Requirements the knowledges, skills, and skills (KSA's) needed to perform the work. Whereas associate degree incumbent might have higher KSA's than those needed for the work, employment Analysis usually solely states the minimum necessities to perform the work.

2.6 RECRUITMENT

Recruitment (hiring) could be a core operate of human resource management. Accomplishment refers to the general method of attracting, choosing and appointing appropriate candidates for jobs (either permanent or temporary) at intervals a corporation. Accomplishment also can discuss with processes concerned in selecting people for unpaid positions, like voluntary roles or unpaid novice roles. Managers, human resource generalists and accomplishment specialists could also be tasked with winding up accomplishment, however in some cases public-sector employment agencies, industrial accomplishment agencies, or specialist search consultancies are accustomed undertake components of the method. Internet-based technologies to support all aspects of accomplishment became widespread.

Process

Job analysis

In things wherever multiple new jobs are created and recruited for the primary time or vacancies are there or the character in such documents as job descriptions and job specifications. Often, a corporation already has job descriptions for existing positions. Wherever already entailed, these documents could need review and change to mirror current necessities. Before the accomplishment stage, an individual specification ought to be finalized.

Sourcing

Sourcing is that the use of 1 or additional ways to draw in or establish candidates to fill job vacancies. it's going to involve internal and/or external accomplishment advertising, exploitation acceptable media, like job portals; native or national newspapers, social media, business media, specialist accomplishment media, skilled publications, window advertisements, job centers, or during a sort of ways in which via the net.

Alternatively, employers could use accomplishment consultancies or agencies to search out otherwise scarce candidates—who, in several cases, could also be content in their current positions and don't seem to be actively trying to maneuver. This primary analysis for candidates—also referred to as name generation—produces contact data for potential candidates, whom the recruiter will then discreetly contact and screen.

Screening and choice

Various psychological tests will assess a spread of KSAOs, as well as acquirement. Assessments are accessible to live ability. Recruiters and agencies could use somebody trailing systems to filter candidates, beside package tools for psychological science testing and performance-based assessment. In several countries, employers are de jure mandated to confirm their screening and choice processes meet civil right and moral standards.

Employers are probably to acknowledge the worth of candidates UN agency comprehend soft skills like social or team leadership. Several firms, as well as international organizations and people that recruit from a spread of nationalities, are usually involved regarding whether or not candidate fits the prevailing company culture.

Disabled candidates

The word incapacity carries few positive connotations for many employers. Analysis has shown that leader biases tend to enhance through first-hand expertise and exposure with correct supports for the worker and also the leader creating the hiring choices. As

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for many firms, cash and job stability are 2 of the causative factors to the productivity of a disabled worker that reciprocally equates to the expansion and success of a business. Hiring disabled staff turns out additional benefits than disadvantages. There's no distinction within the daily production of a disabled employee: Given their state of affairs, they're additional probably to adapt to their environmental surroundings and acquaint themselves with instrumentation, facultative them to unravel issues and overcome adversity like alternative workers. The U.S. federal agency grants firms Disabled Access Credit once they meet eligibility criteria.

Diversity

Many major companies acknowledge the requirement for diversity in hiring to contend with success during a international economy. Alternative organizations, as an example universities and faculties, are slow to embrace diversity as an important worth for his or her success.

Recruitment method Outsourcing (RPO)

Recruitment method Outsourcing, or ordinarily referred to as "RPO" could be a type of business method outsourcing (BPO) wherever a corporation engages a 3rd party supplier to manage all or a part of its accomplishment method.

2.7 SELECTION

Selection is that the method of finding out people (out of the pool of job applicants) with requisite qualifications and ability to fill jobs within the organization. A proper definition of choice is as below

Definition of Selection: method of differentiating

"Selection is that the method of differentiating between candidates so as to spot and rent those with a larger chance of success during a job."

Difference Between Recruitment And Selection:

Recruitment	Selection
1. Recruitment refers to the process of identifying and encouraging prospective employees to apply for jobs.	1. Selection is concerned with picking up the right candidates from a pool of applicants.
2. Recruitment is said to be positive in its approach as it seeks to attract as many candidates as possible.	2. Selection on the other hand is negative in its application in as much as it seeks to eliminate as many unqualified applicants as possible in order to identify the right candidates.

PROCESS/STEPS in choice

Preliminary Interview

The aim of preliminary interviews is largely to eliminate unqualified applications supported data equipped in application forms. The essential objective is to reject misfits. On the opposite hands preliminary interviews is commonly referred to as a courtesy interview and may be a sensible PR exercise.

Choice Tests

Jobseekers World Health Organization past the preliminary interviews square measure involved tests. There square measure varied varieties of tests conducted relying upon the roles and also the company. These tests are often power Tests, temperament Tests, and skill Tests and square measure conducted to guage however well a personal will perform tasks associated with the duty. Besides this there square measure another tests additionally like Interest Tests (activity preferences), Graphology check (Handwriting), Medical Tests, psychology Tests, etc.

Employment Interview

Subsequent step in choice is job interview. Here interview may be a formal and in-depth language between applicant's satisfactoriness. It's thought of to be a superb choice device. Interviews are often matched, Panel Interview, or successive Interviews. Besides there are often structured and unstructured interviews, behavioral Interviews, Stress Interviews.

Reference & Background Checks

Reference checks and background checks square measure conducted to verify the data provided by the candidates. Reference checks are often through formal letters, phone conversations. But it's just a formality and picks choices square measure rarely plagued by it.

Choice Decision

When getting all the data, the foremost crucial step is that the choice call is to be created. The ultimate call must be created out of candidates World Health Organization has passed preliminary interviews, tests, final interviews and reference checks. The views of line managers square measure thought of typically as a result of it's the road manager World Health Organization is accountable for the performance of the new worker.

Physical Examination

When the choice call is created, the candidate is needed to endure a condition check. Employment supply is commonly contingent upon the candidate passing the physical examination.

Job Offer

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Subsequent step in choice method is job supply to those candidates World Health Organization have crossed all the previous hurdles. It's created by method of letter of appointment.

Final choice

2.8 SUMMARY

Human resource coming up with aims at fulfilling the objectives of force demand. It helps to mobilize the recruited resources for the productive activities. The human resource coming up with is a very important method reaching to link business strategy and its operation.

Job Analysis may be a method to spot and verify intimately the actual job duties and necessities and therefore the relative importance of those duties for a given job. Job Analysis may be a method wherever judgments are a unit created regarding knowledge collected on employment.

Recruitment (hiring) could be a core operate of human resource management. Accomplishment refers to the general method of attracting, choosing and appointing appropriate candidates for jobs (either permanent or temporary) at intervals a corporation.

Selection is that the method of finding out people (out of the pool of job applicants) with requisite qualifications and ability to fill jobs within the organization.

2.9 REVIEW QUESTIONS

1. What is the significance of HR planning?
2. What are the factors of HR planning?
3. What are the process, job analysis, recruitment and selection?

UNIT

3

TRAINING AND DEVELOPMENT

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STRUCTURE

- 3.1 Learning Objective
- 3.2 Methods of Training
- 3.3 Executive Development⁴
- 3.4 Performance Appraisal Techniques
- 3.5 Traditional vs. Modern Methods
- 3.6 Limitations of Appraisal
- 3.7 Summary
- 3.8 Review Questions

3.1 LEARNING OBJECTIVE

After completion of this unit, you should be able to:

- Explain the methods of training.
- Describe the techniques of performance and appraisal with its limitations.
- Explain the traditional and modern methods.

3.2 METHODS OF TRAINING

Management development may be a systematic method of growth and development by that the managers develop their talents to manage. It's involved with not solely up the performance of managers however conjointly giving them opportunities for growth and development.

There square measure 2 ways through those managers will improve their data and skills. One is thru formal coaching and different is thru on the task experiences. On the task coaching is extremely vital since real learning takes place only one practice what they need studied.

But it's conjointly equally vital in gaining data through room learning. Learning becomes fruitful only theory is combined with observe. So on the task ways will be balanced with room coaching ways (off-the-job methods).

On-the-job coaching (OJT) Methods:

This is the foremost common methodology of coaching during which an initiate is placed on a selected job and tutored the abilities and data necessary to perform it.

The advantages of OJT square measure as follows:

1. On the task methodology may be a versatile methodology.
2. It's a less costly methodology.
3. The-initiate is very driven and inspired to find out.
4. A lot of arrangement for the coaching isn't needed.

On-the-job coaching ways square measure as follows:

1. Job rotation:

This coaching methodology involves movement of initiate from one job completely different gain data and skill from different job assignments. This methodology helps the initiate understand the issues of different workers.

2. Coaching:

Under this methodology, the initiate is placed below a selected supervisor United Nations agency functions as a tutor in coaching and provides feedback to the initiate. Generally the initiate might not get a chance to specific his concepts.

3. Job instructions:

Also called in small stages coaching during which the trainer explains the means of doing the roles to the initiate and just in case of mistakes, corrects the initiate.

4. Committee assignments:

A group of trainees square measure asked to resolve a given structure drawback by discussing the matter. This helps to enhance team work.

5. Situation training:

Under this methodology, instructions through theoretical and practical aspects are provided to the trainees. Usually, students from the engineering and commerce colleges receive this type of training for a small stipend.

Off-the-job Methods:

On the job training methods have their own limitations, and in order to have the overall development of employee's off-the-job training can also be imparted. The methods of training which are adopted for the development of employees away from the field of the job are known as off-the-job methods.

The following are some of the off-the-job techniques:

1. Case study method:

Usually case study deals with any problem confronted by a business which can be solved by an employee. The trainee is given an opportunity to analyze the case and

come out with all possible solutions. This method can enhance analytic and critical thinking of an employee.

2. Incident method:

Incidents are prepared on the basis of actual situations which happened in different organizations and each employee in the training group is asked to make decisions as if it is a real-life situation. Later on, the entire group discusses the incident and takes decisions related to the incident on the basis of individual and group decisions.

3. Role play:

In this case also a problem situation is simulated asking the employee to assume the role of a particular person in the situation. The participant interacts with other participants assuming different roles. The whole play will be recorded and trainee gets an opportunity to examine their own performance.

4. In-basket method:

The employees are given information about an imaginary company, its activities and products, HR employed and all data related to the firm. The trainee (employee under training) has to make notes, delegate tasks and prepare schedules within a specified time. This can develop situational judgments and quick decision making skills of employees.

5. Business games:

According to this method the trainees are divided into groups and each group has to discuss about various activities and functions of an imaginary organization. They will discuss and decide about various subjects like production, promotion, pricing etc. This gives result in co-operative decision making process.

6. Grid training:

It is a continuous and phased program lasting for six years. It includes phases of planning development, implementation and evaluation. The grid takes into consideration parameters like concern for people and concern for people.

7. Lectures:

This will be a suitable method when the numbers of trainees are quite large. Lectures can be very much helpful in explaining the concepts and principles very clearly, and face to face interaction is very much possible.

8. Simulation:

Under this method an imaginary situation is created and trainees are asked to act on it. For e.g., assuming the role of a marketing manager solving the marketing problems or creating a new strategy etc.

9. Management education:

At present universities and management institutes gives great emphasis on management education. For example, Mumbai University has started bachelors and postgraduate degree in Management. Many management Institutes provide not only degrees but also hands on experience having collaboration with business concerns.

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10. Conferences:

A meeting of several people to discuss any subject is called conference. Each participant contributes by analyzing and discussing various issues related to the topic. Everyone can express their own view point.

3.3 EXECUTIVE DEVELOPMENT

Executive development is that the whole of activities geared toward developing the talents and competencies of these that (will) have government positions in organizations. Whereas "executive" and "manager" and "leader" are typically used interchangeably, "executive" is usually wont to signify the highest five-hitter to 100% of the organization. Similarly, "development" and "training" and "education" are typically used as synonyms, but "development" is usually seen because a lot of encompassing of the 3 in terms of activities that build skills and competencies.

While it's typical to search out organizations that have dedicated company coaching & development folks and processes, it's not perpetually the case that a company can have an infatuated government development set of activities. In some organizations (typically massive multi-nationals), there's a separate government development team, in different organizations government development is handled joined of the many activities by the larger company coaching cluster, and in nonetheless different eventualities there's no government development activity to talk of.

In distinction to different company coaching & development activities, that have as their core purpose to make plan of action skills for workers, government development plays a special role for the organization. Indeed, some government development is conducted for the aim of building plan of action skills (sometimes named as "hard skills" like business fundamentals- finance, marketing, operations and conjointly "soft skills" like communication and team building), nonetheless government development is additionally wont to valuate future potential future governments in addition as a mechanism for the chief operating officer and therefore the executive team to cascade their methods, goals, and even components of the culture to the remainder of the management team and ultimately the organization. Within the better of cases, government development not solely helps a company execute its key methods; it can even facilitate offer input to the strategy creation method. During this approach, government development is way a lot of strategic than typical company coaching & development that is employed for many workers of a company.

Executive Development activities usually comprise 2 broad categories: Assessment and Development as printed below.

Assessment

- Capability necessities – offer input into the organization's strategy formulation method by characteristic what's needed of executives from a capability perspective

- Capability Assessment – live existing capabilities against needed capabilities
- Gap Analysis – establish gap between necessities and current assessment, with an eye fixed toward what capabilities are often “built” (development) vs. “bought” external hiring

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Development

- Segment government population– produces groupings of executives, by level, geography, business unit, or different affiliation (C-suite track, high potential’s, essential roles, etc.)
- Architect – produce development activities and experiences for the various segmentations
- Deliver – Coordinate across the system of internal and external partners to deliver development experiences and manage execution of government development initiatives, etc.
- Measure & Refine – Conduct post activity ROI (typically Kirkpatrick Level I-IV), create course corrections, summarize and report results

Some of the adjacent Talent Management activities that government development might have involvement with embody the succession coming up with method (typically not chief operating officer or chief operating officer -1, but below), government on boarding (ideally each external hiring and internal changes), structuring on the duty organic process assignments, and dealing with alumni of development programs, and alumni of the organization.

Development choices

Executive development professionals have a good style of activities they will like better to deploy as well as so as of most ordinarily found:

- OTJ (On the job) stretch assignments, line and employees roles, move assignments
- Executive coaching job
- Mentoring
- Custom workshops and activities
- Action learning
- Business faculty open enrollment courses
- Online courses and resources

Best Practices

The following are a group of best practices most frequently found in organizations that have long standing development activities that are extremely regarded in and out of doors of the organization.

- Articulate a transparent and compelling vision – Leaders have several com-

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petitory priorities, and want a compelling set of reasons to support development activities. The event team has to build a compelling case and consistent themes across its development strategy.

- Build support across key sponsors - government development professionals got to have a deep set of contacts each inside the organization and across several functions and out of doors with thought leaders and specialists. Several organizations have found that consultative Boards, that request to form a proper method of soliciting the input from stakeholders as extremely effective. Relationships with internal executives, WHO are more and more used as "faculty" to delivery development, are necessary to nurture. A robust skilled network is that the "currency" of the event skilled.
- Ground development in business challenges - once doubtful, development that's unmoving in resolution current and vital business challenges can perpetually prevail over development that's designed to spherical out a frontrunner or a bunch of pros.
- Shorten the timeline - particularly in lightweight of budget cutbacks that are only too common in organizations these days, its necessary that development is targeted on resolution current operational cycle problems and challenges. Development plans that span several quarters risk ne'er being absolutely enforced.
- Market successes - prosperous development professionals, like every different professional within the organization, are quite smart at lightness their impact for the organization and ensuring to form "buzz" for his or her work and activities. Whether or not through formal ROI studies or informal anecdotal reviews that is circulated to strategic people, it's key to push success.

Below are key factors that are impacting the sector of government development:

- Time frame - The speed with that organizations got to revise methods, launch new merchandise and services, expand their world footprint, etc. continues to accelerate; a lot of fast suggests that of facultative the organization and its leaders to form these changes are needed from the event operate.
- Share of mind - Executives are implausibly taxed with increasing set of responsibilities; mid-level management has been reduced and therefore the range of stakeholders (community, surroundings, government, etc.) has inflated, all golf shot unimaginable pressure on leaders. Development that's not of immediate price risks elimination.
- Budget - this economic scenario has place nice pressure on all expenses across the organization, government development is not any exception. Centralized development budgets are all targets, whereas sure activities like government coaching job that will be paid out of a business unit budget is

also a lot of insulated from cutbacks.

- “Bottom line” unit of time – As several organizations became a lot of results adjusted and quantitative for all support functions, there’s inflated pressure for unit of time and every one of its parts to “raise its game” and prove in business terms its impact.

These factors are making a replacement operational context for government development professionals. In response to the present new surroundings, The Institute of government Development has articulated a vision of what government Development 2.0 can look like:

- The purpose of the operate is to drive the structure strategy (not only build skills)
- The content is going to be supported current business imperatives
- The timeline is targeted on the immediate twelve months, not longer
- The format can embody a lot of on the duty and action learning (vs. formal workshops and programs)
- The audience can embody stakeholders like customers and partners
- The budget are going to be measured a lot of in terms of investment of executive’s time (vs. funds)

While government development continues to become enriched by several approaches, one approach, adult development its subfield positive adult development is setting out to produce opportunities for what has been basically reserved for educational analysis to become an increasing a part of government practices.

3.4 PERFORMANCE APPRAISAL TECHNIQUES

Assessment Centre methodology

The purpose of this methodology is to check candidates in social things. It is employed by startups for evaluating staff serving at senior level. This methodology of analysis is useful for assessing managers, United Nations agency ought to alter their subordinate, peers and supervisors for everyday business. It helps employers understand the capability and also the capability of the individual in social settings. It involves exploitation situational exercises like associate in-tray exercise, role-playing incident, business game and plenty of different similar exercises. It offers the leader associate insight to the temperament of the worker like openness, tolerance, introversion/extroversion, satisfactoriness, etc.

Behaviorally Anchored Rating Scale

This is latest a contemporary appraisal technique that has been developed recently. It’s claimed that the Behaviorally Anchored Rating Scale methodology is one among

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the foremost just technique compared to different strategies of appraisals. It's a mix of narrative techniques like essay analysis and quantitative techniques like rating scale. It's relatively dearer than different techniques; however it always guarantees exactitude and effectiveness.

Critical Incident Technique

This technique is analogous to the essay analysis methodology. It involves creating statements that describes each the positive and also the negative reactions to stimulation by the worker at his work place. The statements area unit recorded cumulatively during a given amount of your time, in order that one will evaluate however sensible the worker is at his job. His proficiency is going to be determined by however he deals along with his every day activities. The appraiser during this methodology is sometimes the direct supervisor or manager below whom the worker is serving. This method isn't solely used for performance appraisals however additionally utilized in job interviews. The asker offers situations to the answerer and asks them; however they might react to the given situations.

Essay analysis

The essay methodology is an inexpensive and effective manner of critical staff, particularly in startups. This methodology involves writing an in depth descriptive essay of the performance by the employee's direct supervisor or manager. The essay concentrates on describing the varied strengths, weaknesses, perspective and behavior of the individual towards job duties. This methodology is a smaller amount structured and so offers the appraiser a chance to explore and describe niche qualities or shortcomings of the worker that require to be worked on. It's way simpler to execute compared to the opposite strategies, provided that biases may be unbroken trapped.

Human quality Accounting methodology

This is an awfully business and sensible performance appraisal methodology for organizations. During this situation, the human capital is related to the quantity of revenue that individual generates, or the quantity of happy customers or the quantity of leads generated in sales. It's a good method from the purpose of read of the organization and also the worker, as a result of it directly indicates the gain of the corporate. This methodology is adopted by most startups, since it's simple to execute and track. Therefore, the quantity of business generated by associate worker determines whether or not he deserves to be promoted or terminated.

Management By Objective

A rather interactive and honest kind of appraisal, the Management By Objective methodology is a smaller amount time intense and in fact price effective. The technique involves fixing of objectives and goals for the worker either by the leader, or his manager, or each worker and leader. This performance appraisal methodology

helps the worker to perform higher; as a result of he's cognizant of his goals and already is aware of the standard and amount that must be delivered. It's been ascertained that once each worker and leader along decide the objectives, the chance of the individual meeting the goal is far higher. This can be a good methodology of evaluating as a result of the worker is aware of the chances that he's measured against. It doesn't involve giving constant feedback to the worker; as a result of he's being perpetually self introverted, thereby saving time and efforts of the leader.

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Paired Comparison methodology

This methodology bears additional connexion and importance in startups/SMBs that have tiny groups. It compares every worker with each individual gift within the same team and looking on their comparative performance to the worker United Nations agency has performed the simplest, appraisals area unit given. Thought-about its reliable as a result of it follows a scientific methodology of comparative analysis. This method is most apt once, the organization plans on giving appraisal solely to the simplest worker within the team.

Rating Scale

This performance appraisal methodology is employed by startups and little businesses that area unit scaling and are attempting to line up processes in situ. It process-based and involves the organization to line pre-determined objectives that staff area unit expected to fulfill. People area unit then rated by their supervisors or managers. It's almost like the grading system that's sometimes followed in colleges, however is effective and systematic. Staff area unit evaluated for his or her skills, teamwork, communication skills, precision, etc. and that they area unit expected to fulfill a basic score. If they are doing not meet the score then they're sent for performance improvement coaching which might facilitate them cope up with their shortcomings.

Trait Focussed Appraisals

This technique is helpful for reinforcing positive work ethics and culture within the organization. It considers attributes like helpfulness, reliability, timing, etc for being appraised by the organization. It motivates staff to be competitive during an honest manner and however be out there for serving to our colleagues if would like be. Startups ought to contemplate giving their staff attribute focused appraisals once during whereas, as a result of it reinforces positive culture within the organization.

360 Degree Feedback

This methodology involves obtaining a feedback regarding the worker from each individual United Nations agency interacts with him throughout his operating hours. They will be his peers, his subordinates, his superiors, customers United Nations agency have interacted with him and even he himself would be interviewed regarding

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his perception of himself and his duties at the geographic point. This performance appraisal methodology would be terribly helpful for startups, as a result of the simplest thanks to review associate employee's overall performance and acquire associate insight regarding his behavior, temperament and perspective this can be the simplest methodology to follow. Though it's somewhat time intense, however it's price effective and precise. It keeps biases out of play, as a result of multiple opinions, in order that the review isn't laid low with biases of 1 person.

Appraisals area unit suggests that to associate employee's career development. Therefore, effective performance appraisal strategies not solely facilitate the worker grow, however additionally the organization. If the worker is given feedback frequently and regularly, the organization are going to be at the receiving finish of the profit too. Performance reviews area unit necessary as a result of the assist establish and set goals for the worker, acknowledge performance over time, guide progress, establish the matter areas or weaknesses, improve performance and discuss career development within the company. Corporations ought to provide promotions and appraisals oft as a result of it keeps the workers intended to perform higher, thereby maximizing the potency of the worker, and also the productivity of the corporate.

3.5 TRADITIONAL VS. MODERN METHODS

Each technique of performance appraisal has its strengths and weaknesses are also appropriate for one organization and non-suitable for an additional one. As such, there's no single appraisal technique accepted and employed by all organizations to live their employees' performance.

All the ways of appraisal devised thus far are classified otherwise by totally different authors. Whereas DeCenzo and Robbins[^] have classified appraisal ways into 3 categories: absolute methods, relative ways and objective methods; Aswathappa has classified these into 2 classes past-oriented and future-oriented.

Michael R carrel et al. has classified all appraisal ways into as several as six categories: rating scales, comparative ways, important incidents, and essay, MBO and combination ways. Rock and Levis[^] have classified the ways into 2 broad categories: slim interpretation and rendering. Beatty and Schneier have classified varied ways of appraisal into four groups: comparative ways, absolute ways, goal setting, and direct indices.

A lot of wide used classification of appraisal ways into 2 classes, viz., ancient ways and electronic equipment ways, is given by Strauss and Sayles[^]. Whereas ancient ways lay stress on the rating of the individual's temperament traits, like initiative, responsibility, drive power, integrity, intelligence, leadership potential, etc.; the electronic equipment ways, on the opposite hand, place a lot of stress on the analysis of labor results, i.e., job achievements than the non-public traits! Electronic equipment

ways tend to be a lot of objective and worthy. The various methods included in each of the two categories are listed in Table .

Table 3.1: Methods of Performance Appraisal

Traditional Methods	Modern Methods
1. Ranking method	1. Mangement by Objectives (MBO)
2. Paired comparison	2. Behaviourally anchored rating scales
3. Grading	3. Asessment centres
4. Forced distribution method	4. 360-degree appraisal
5. Forced choice method	5. Cost accounting method
6. Checklist method	
7. Critical incidents method	
8. Graphic scale method	
9. Essay method	
10. Field review method	
11. Confidential report	

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In the discussion that follows, each method under both categories will be described briefly.

Traditional Methods:

Ranking Method:

It is the oldest and simplest formal systematic technique of performance appraisal within which worker is compared with all others for the aim of putting order of value. The staff square measure hierarchical from the best to very cheap or from the most effective to the worst.

In doing this the worker WHO is that the highest on the characteristic being measured and additionally the one WHO is L lowest, square measure indicated. Then, consequent highest and also the next lowest between next highest and lowest till all the staff to be rated are hierarchical. Thus, if there square measure 10 workers to be appraised, there'll be 10 ranks from one to ten.

However, the best limitations of this appraisal technique square measure that:

- i. It doesn't tell that what proportion higher or worse one is than another,
- ii. The task of ranking people is tough once an oversized variety of workers square measure rated, and

- iii. Its terribly tough to check one individual with others having variable behavioral traits. To remedy these defects, the paired comparison technique of performance appraisal has been evolved.

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Paired Comparison:

In this technique, every worker is compared with alternative workers on one- on one basis, sometimes supported one attribute solely. The rate is supplied with a bunch of slips every coining try of names, the rater puts a tick mark against the worker whom he insiders the higher of the 2. The amount of times this worker is compared as higher with others determines his or her final ranking.

The variety of doable pairs for a given number of workers is determined by the subsequent formula:

$$N(N-1)/2$$

Where N = the total number of employees to be evaluated. Let this be exemplified with an imaginary example.

If the following five teachers have to be evaluated by the Vice Chancellor of a University:

(K), Mohapatra (M Raul (R), Venkat (V), and Barman (B), the above formula gives $5(5-1)/2$ or 10 pairs.

These are:

K with M			
K with R	M with R		
K with V	M with V	R with V	
K with B	M with B	R with B	V with B

Thus, the pairs thus determined offer the utmost doable permutations and mixtures. The quantity of times a employee is taken into account higher makes his/her score. Such scores are determined for every employee and he/she is hierarchic in keeping with his/her score. One obvious disadvantage of this technique is that the tactic will become unwieldy once massive numbers of staff are being compared.

Grading Method:

In this technique, sure classes of price are established prior to and thoroughly outlined. There may be 3 classes established for employees: outstanding, satisfactory and disappointing. There may be quite 3 grades. Worker performance is compared with grade definitions. The worker is, then, allotted to the grade that best describes his or her performance.

Such sort of grading is completed in Semester pattern of examinations and within the choice of a candidate within the public service sector. One in every of the foremost drawbacks of this technique is that the rater could rate most of the staff on the upper facet of their performance.

Forced Distribution Method:

This technique was evolved by Tiffen to eliminate the central tendency of rating most of the staff at a better finish of the size. The tactic assumes that employees' performance level conforms to a standard arrangement i.e., 10,20,40,20 and ten per cent. This is often helpful for rating an oversized range of employees' job performance and promo ability. It tends to eliminate or cut back bias.

It is conjointly extremely easy to know and simple to use in critical the performance of staff in organizations. It suffers from the downside that improve equally, no single grade would rise during a ratings.

Forced-Choice Method:

The forced-choice technique is developed by J. P. Guilford. It contains a series of teams of statements, and rater rates however effectively an announcement describes every individual being evaluated. Common technique of forced-choice technique contains 2 statements, each positive and negative.

Examples of positive statements are:

1. offers smart and clear directions to the subordinates.
2. may be depended upon to finish any job assigned.

A try of negative statements is also as follows:

1. Makes guarantees on the far side his limit to stay these.
2. Inclines to favor some staff.

Each statement carries a score or weight, that isn't created notable to the rater. The human resource section will rate for all sets of statements— each positive and negative. The ultimate rating is completed on the premise of all sets of statements. Thus, worker rating during this manner makes the tactic additional objective. The sole downside related to this technique is that the particular constructing of many appraising statements conjointly known as 'forced-choice scales', takes plenty of your time and energy.

Check-List Method:

The basic purpose of utilizing check-list technique is to ease the analysis burden upon the rater. During this technique, a series of statements, i.e., queries with their answers in 'yes' or 'no' are ready by the 60 minutes department (see Figure 28-2). The check-list is, then, conferred to the rater to tick applicable answers relevant to the appraisee. Every question carries a weight-age in relationship to their importance.

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3.2 Sample Check-list for Appraisal University Teachers

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	Yes	No
1. Is regular on the job	-	-
2. Does maintain discipline well?	-	-
3. Does show consistent behaviour to all students?	-	-
4. Is interested in (teaching) Job?	-	-
5. Does ever make mistakes?	-	-
6. Does show favouritism to particular students?	-	-
7. Is willing to help colleagues?	-	-

When the check-list is completed, it's sent to the hour department to arrange the ultimate scores for all appraises supported all queries. Whereas making ready queries a trial is formed to work out the degree of consistency of the rater by asking identical question doubly however during a totally different manner (see, numbers three and six in Figure 28-2).

However, one in every of the disadvantages of the check-list methodology is that it's tough to assemble, analyze and weigh variety of statements concerning worker characteristics and contributions From a price stand purpose additionally, this methodology is also inefficient significantly if there are variety of job classes within the organization, as a result of a check-list of queries should be ready for every class of job. It'll involve lots of cash, time and efforts.

Critical Incidents Method:

In this methodology, the rater focuses his or her attention on those key or important behaviors that create the distinction between playing employment during a noteworthy manner (effectively or ineffectively). There are 3 steps concerned in evaluative staff victimization this methodology:

First, a listing of noteworthy (good or bad) on-the-job behavior of specific incidents is ready. Second, a bunch of consultants then assigns weight age or score to those incidents, relying upon their degree of desirability to perform employment. Third, finally a check-list indicating incidents that describe employees as "good" or "bad" is built. Then, the check-list is given to the rater for evaluating the employees.

The basic plan behind this rating is to apprise the employees WHO will perform their jobs effectively in important things. This can be thus as a result of the general public working alike in traditional state of affairs. The strength of important incident methodology is that it focuses on behaviors and, thus, judge's performance instead of personalities.

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Its drawbacks are too often written down the important incidents that become long and onerous for evaluators, i.e., managers. Generally, negative incidents are positive ones. Its rater's abstract thought that determines that incidents are important to job performance. Hence, the tactic is subject to all or any the constraints regarding subjective judgments.

Graphic Rating Scale Method:

The graphic rating scale is one in every of the foremost well-liked and simplest techniques for evaluative performance. It's additionally referred to as linear rating scale. During this methodology, the written appraisal kind is employed to appraise every worker.

The form lists attributes (such as quality and reliability) and a variety of job performance characteristics (from unacceptable to outstanding) for every trait. The rating is finished on the premise of points on the time. The common follow is to follow 5 points scale.

The rater rates every appraisee by checking the score that best describes his or her performance for every attribute all appointed values for the traits are then destroyed.

Figure 28-3 shows a typical graphic rating scale.

3.3 Sample of Graphic Rating Scale Items and Format

Performance Factor	Performance Rating				
Quality of work is the accuracy, skill, and completeness of work.	<input type="checkbox"/> Consistently unsatisfactory	<input type="checkbox"/> Occasionally unsatisfactory	<input type="checkbox"/> Consistently satisfactory	<input type="checkbox"/> Sometimes superior	<input type="checkbox"/> Consistently superior
Quantity of work is the volume of work done in a normal workday.	<input type="checkbox"/> Consistently unsatisfactory	<input type="checkbox"/> Consistently unsatisfactory	<input type="checkbox"/> Consistently satisfactory	<input type="checkbox"/> Sometimes superior	<input type="checkbox"/> Consistently superior
Job knowledge in information pertinent of the job that an individual should have for satisfactory job performance	<input type="checkbox"/> Poorly in formed about work duties	<input type="checkbox"/> Occasionally unsatisfactory	<input type="checkbox"/> Can answer most questions about the job	<input type="checkbox"/> Under stands all phases of the job	<input type="checkbox"/> Has complete Mastery of all phases of the job

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Dependability in following directions and company policies without supervision	<input type="checkbox"/> Required constant supervision	<input type="checkbox"/> Requires occasional follow up	<input type="checkbox"/> Usually can be counted on	<input type="checkbox"/> Requires very little supervision	<input type="checkbox"/> Requires absolute minimum of supervision
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This methodology is sweet for mensuration numerous job behaviors of associate worker. However, it's additionally subjected to rater's bias whereas rating employee's behavior at job. Incidence of ambiguity in design- mg the graphic scale leads to bias in critical employee's performance.

Essay Method:

Essay methodology is that the simplest one in every of numerous appraisal ways on the market. During this methodology, the rater writes a narrative description on associate employee's strengths, weaknesses, past performance, potential and suggestions for improvement. Its positive purpose is that it's easy in use. It doesn't need advanced formats and extensive/specific coaching to finish it.

However, essay methodology, like different ways, isn't free from drawbacks. Within the absence of any prescribed structure, the essays are possible to vary wide in terms of length and content. And, of course, the standard of appraisal depends additional upon rater's writing ability than the appraiser's actual level of performance.

Moreover, as a result of the essays is descriptive, the tactic provides solely qualitative data concerning the worker. Within the absence of quantitative information, the analysis suffers from perspicacity drawback. Withal, the essay methodology could be a smart begin and is useful additionally if utilized in conjunction with different appraisal ways.

Field Review Method:

When there's a reason to suspect rater's biasedness or his or her rating seems to be quite beyond others, these are neutral with the assistance of a review method. The review method is sometimes conducted by the personnel officer within the 60 minutes department.

The review method involves the subsequent activities:

- (a) determine areas of inter-rater disagreement.
- (b) facilitate the cluster attain a accord.
- (c) make sure that every rater conceives of the quality similarity.

However, the method could be a long one. The supervisors typically resent what they think about the employees' interference. Hence, the tactic isn't wide used.

Confidential Report:

It is the normal approach of critical staff chiefly within the Government Departments. Analysis is formed by the immediate boss or supervisor for giving impact to promotion and transfer. Typically a structured format is devised to gather data on employee's strength weakness, intelligence, attitude, character, attendance, discipline, etc. report.

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Modern Methods:

Management by Objectives (MBO):

Most of the normal ways of performance appraisal are subject to the antagonistic judgments of the raters. It absolutely was to beat this problem; Peter F. Drucker propounded a replacement conception, namely, management by objectives (MBO) approach back in 1954 in his book.

The follow of management, the conception of MBO as was planned by Drucker, is represented as a "process whereby the superior and subordinate managers of a corporation together determine its common goals, outline every individual's major areas of responsibility in terms of results expected of him and use these measures as guides for operational the unit and assessing the contribution of every its members".

In different words, stripped to its necessities, MBO needs the manager to goals with every worker and so sporadically discuss his or her progress toward these goals.

In fact, MBO isn't solely a technique of performance analysis. It's viewed by the active managers and pedagogues as a philosophy of social control follow as a result of it's a technique by which managers and subordinates set up, organize, communicate, management and discussion.

An MBO program consists of 4 main steps: goal setting, performance customary, comparison, and periodic review. In goal-setting, goals are set that every individual, s to realize. The superior and subordinate together establish these goals. The goals talk to the specified outcome to be achieved by every individual worker.

In performance standards, the standards are set for the staff as per the antecedently organized fundamental measure. once the staff begin performing arts their jobs, they are available to grasp what's to be done, what has been done, and what remains to be done.

In the third step the particular level of goals earned are compared with the goals arranged. This allows the authority to search out the explanations variation between the particular and customary performance of the staff. Such a comparison helps devise coaching desires for increasing employees' performance it may explore the conditions having their bearings on employees' performance however over that the staff haven't any management.

Finally, within the periodic review step, corrective live is initiated once actual performance deviates from the slandered established within the initial step-goal-

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setting stage. In line with the MBO philosophy periodic progress reviews are conducted in an exceedingly constructive instead of penitentiary manner.

The purpose of conducting reviews isn't to degrade the performing artist however to help in his/her future performance. From a psychological feature purpose of read, this might be representative of McGregor's theories.

Figure 28.4 gift the MBO methodology of performance appraisal presently employed by associate engineering large i.e., Larsen and Toubro restricted.

Limitation of MBO:

MBO isn't a curative, cure for all organizational issues.

As with different ways, it conjointly suffers from some limitations as listed below:

i. **Setting Un-measurable Objectives:**

One of the issues MBO suffers from is unclear and un-measurable objectives set for attainment. Associate objective like "will do a higher job of training" is useless because it is un-measurable. Instead, "well have four subordinates promoted throughout the year" may be a clear and measurable objective.

ii. **Time-consuming:**

The activities concerned in associate MBO program like setting goals, activity progress, and providing feedback will take a good deal of your time.

iii. **Tug of War:**

Setting objectives with the subordinates generally turns into a tug of war within the sense that the manager pushes for higher quotas and also the subordinates push for lower ones. As such, goals thus set are probably to be impossible.

iv. **Lack of Trust:**

MBO is probably going to be ineffective in associate atmosphere wherever management has very little trust in its workers. Or say, management makes selections dictatorially and depends heavily on external controls.

Behaviorally Anchored Rating Scales (BARS):

The problem of faultfinding performance evaluation inherent within the ancient ways of performance analysis junction rectifier to some organizations to travel for objective analysis by developing a method called "Behaviorally Anchored Rating Scales (BARS)" around Nineteen Sixties. BARS are descriptions of varied degrees of behavior with relation to a particular performance dimension.

It combines the advantages of narratives, crucial incidents, and quantified ratings by anchoring a quantified scale with specific behavioral samples of smart or poor performance. The proponents of BARS claim that it offers higher and additional evenhanded appraisals than do the opposite techniques of performance appraisal we have a tendency to mention up to now.

Developing BARS usually involves 5 steps:

1. Generating crucial Incidents:

Critical incidents (or say, behaviors) are those that are essential for the performance of the task effectively. Persons WHO are knowledgeable of the task in question (jobholders and/or supervisors) are asked to explain specific crucial incidents of effective and ineffective performance. These crucial incidents are also delineate during a few short sentences or phrases exploitation the language.

2. Developing Performance Dimensions:

The crucial incidents are then clustered into a smaller set of performance dimensions, typically 5 to 10. Every cluster, or say, dimension is then outlined.

3. Reallocating Incidents:

Various crucial incidents are reallocated dimensions by another cluster of individuals WHO conjointly recognize the task in question. Numerous crucial incidents thus reallocated to original dimensions are clustered into numerous classes, with every cluster showing similar crucial incidents. Those crucial incidents are maintained that meet fifty to eightieth of agreement with the cluster as classified in step a pair of.

4. Scaling Incidents:

The same second cluster as in step three rates the behavior delineate in every incident in terms of effectiveness or powerlessness on the suitable dimension by exploitation seven to 9 points scale. Then average effectiveness ratings for every incident are determined to make your mind up that incidents are enclosed within the final anchored scales.

5. Developing Final BARS Instrument:

A set of the incidents (usually six or seven per cluster) is employed as a behavioral anchor for the ultimate performance dimensions. Finally, a BARS instrument with vertical scales is drawn to be used for performance appraisal, as in Figure 27-5.

How BARS is developed will be exemplified with associate example of grocery checkout clerks operating during a giant grocery chain.

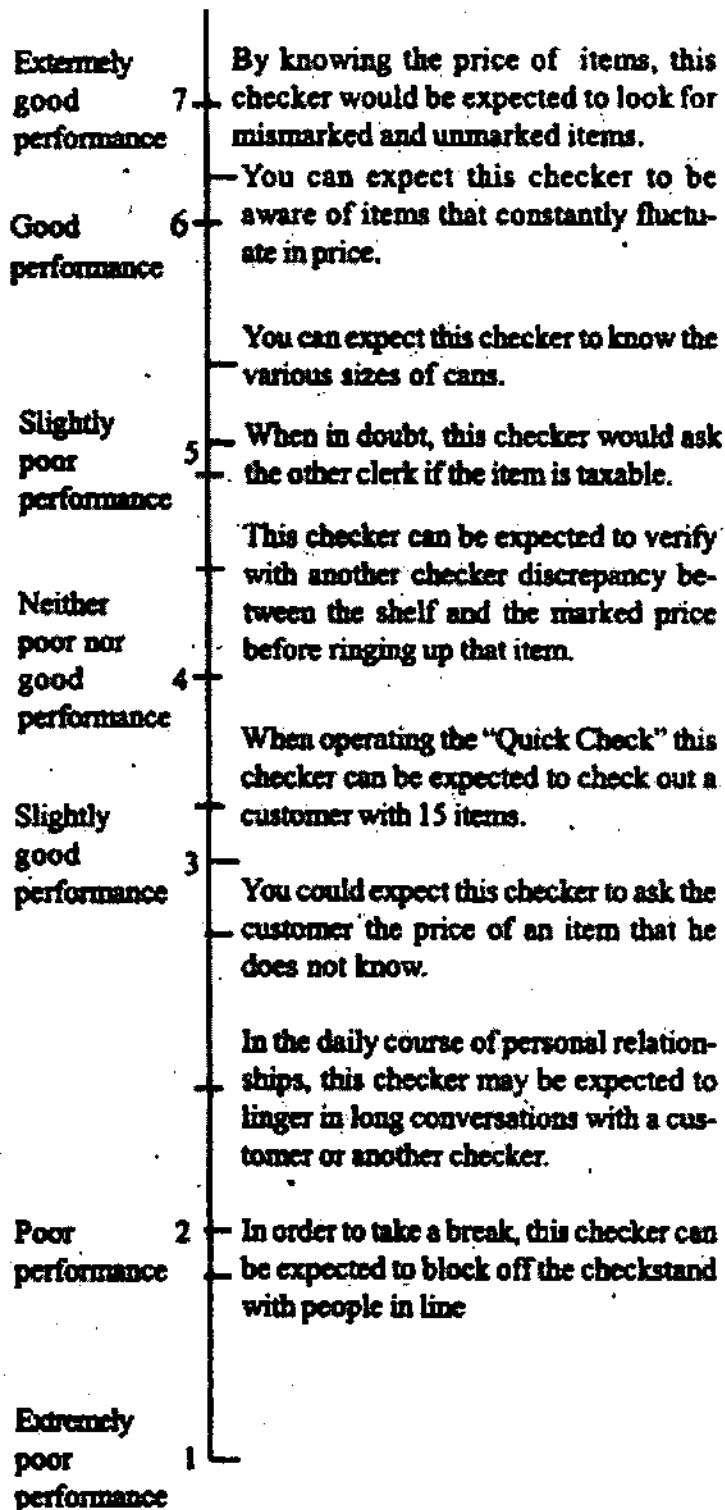
A number of crucial incidents concerned in sorting out of grocery will be clustered into seven performance dimensions:

1. data and Judgment
2. Conscientiousness
3. ability in Human Relations
4. ability operative of Register.
5. ability in textile
6. Organizational Ability of Check stand Work
7. ability in financial Transactions
8. empirical Ability

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Now, a BARS for one in all these performance dimensions, namely, "knowledge and judgment" will be developed, as in Figure 28-5. Notice however the everyday BARS is behaviorally anchored with specific crucial incidents.


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Fig. 28.5 : BARS for Appraising of a Grocery Checker's Job

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CONFIDENTIAL PA Form: 2B	NAME	EMP. P. S. No.	CADRE	GROUP	DEPT.
<p>EXECUTIVES & SUPERVISORS</p>  <p>LARSEN & TOUBRO LIMITED HUMAN RESOURCE DEVELOPMENT—PERFORMANCE APPRAISAL SYSTEM PERFORMANCE ANALYSIS AND REVIEW APRIL ... TO MARCH</p>					
	NAME	DATE	SIGNATURE		
EMPLOYEE					
IMMEDIATE SUPERIOR					
NEXT SUPERIOR	1. 2.				
PERSONNEL/HRD DEPT.					
A PERFORMANCE REVIEW AGAINST OBJECTIVES			B1 By Immediate Superior		
A1 By Employee			Outstanding	V. Good	Good
AGREED OBJECTIVES & TARGETS (Not more than five)		RESULTS ACHIEVED			
1.					
2.					
3.					
4.					
5.					
A2 SELF REVIEW (By Employee)					
SIGNIFICANT CONTRIBUTORS (JOB OR PROFESSION RELATED—NOT COVERED ABOVE)					
IMPORTANT FACTORS FACILITATING PERFORMANCE					
IMPORTANT FACTORS HINDERING PERFORMANCE					
B2 PERFORMANCE AGAINST OBJECTIVES (By Immediate Superior)					
OUTSTANDING V. GOOD GOOD ADEQUATE INADEQUATE (Contd.)					

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C Appraisal of Critical Attributes (By Immediate Superior)		OUTSTANDING	V.GOOD	GOOD	ADEQUATE	INADEQUATE
C1 Critical Attributes						
1. INNOVATIVENESS	Ability to think new and better ways of doing things that result in introduction of new ideas or improvements of the systems and operations.					
2. INITIATIVE	Ability to determine and initiate actions that result in improved handling of jobs, without waiting to be told.					
3. INTERPERSONAL & TEAM RELATIONSHIP	Ability to interact effectively with people at all levels to gain their confidence and respect and work in a collaborative and participative manner.					
4. RESOURCEFULNESS	Ability to muster resources to achieve desired results and devise ways and means of solving problems in difficult situations.					
5. COMMUNICATION SKILLS	Ability to convey thoughts and feelings clearly both through oral as well as written expressions for better understanding.					
Specific role related attributes (Identified in the beginning of the year)						
6.						
7.						
C2 Areas of Strengths & Improvements (By Immediate Superior)						
MAJOR STRENGTHS						
AREAS OF IMPROVEMENTS						
C3 Potential Areas for Growth (By Immediate Superior)						
D Areas Recommendations for Training & Development (By Immediate Superior)						
D1 IN-COMPANY TRAINING PROGRAMMES						
Description	Code	Description	Code			
1.	2.					
D2 OTHER TRAINING PROGRAMMES						
1.	2.					
D3 SPECIFIC DEVELOPMENT PLANS						
Proposed Action (Tick as applicable)			Details of Actions Required			
<input type="checkbox"/> Job Rotation	<input type="checkbox"/> Job Enlargement	<input type="checkbox"/> Special Assignment				
<input type="checkbox"/> Deputation to Other Dept.	<input type="checkbox"/> Other (Please Specify)					
E Comments by Next Superior (S)						
On Specific Development Plans Stated Above in D3						
Overall Observations:						
F Form Used by Personnel (HRD) Co-ordinator						

Fig. 28.4 : MBO Method of Performance Appraisal at Larsen and Toubro Limited

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BARS technique of performance appraisal is taken into account higher than the standard ones as a result of it provides benefits sort of a additional correct gauge, clearer standards, higher feedback, and consistency in analysis. However, BARS isn't free from limitations:

The analysis on BARS indicates that it too suffers from distortions inherent in most rating scales. The analysis study terminated that "it is obvious that analysis on BARS so far doesn't support the high promise relating to scale independence briefly, whereas BARS could trounce standard rating techniques, it's clear that they're not a remedy for getting high interrater reliability"

Assessment Centers:

The introduction of the thought of assessment centers as a technique of performance method is copied back in Nineteen Thirties within the European nation accustomed appraise its army officers. The thought step by step unfold to the United States and therefore the United Kingdom of Great Britain and Northern Ireland in Nineteen Forties and to the Britain in Sixties.

The thought, then, traversed from the military to business arena throughout Sixties. The thought of assessment centre is, of course, of a recent origin in India. In India, Crompton Greaves, Eicher, geographic region Lever and Modi Xerox have adopted this method of performance analysis.

In business field, assessment centers square measure chiefly used for evaluating govt or superordinate potential. By definition, associate assessment centre may be a central location wherever managers close to participate in well-designed simulated exercises. they're assessed by senior managers supplemented by the psychologists and therefore the time unit specialists for 2-3 days.

Assessee is asked to participate in in-tray exercises, work teams, simulations, and role taking part in that square measure essential for sure-fire performance of actual job. Having recorded the assessee's behavior the raters meet to debate their pooled data and observations and, supported it, they provide their assessment concerning the assessee. At the top of the method, feedback in terms of strengths and weaknesses is additionally provided to the assessee.

The distinct benefits the assessment centers offer embody additional correct analysis, mini-mum biasedness, right choice and promotion of executives, and so on. All the same, the technique of assessment centers is additionally suffering from bound limitations and issues. The technique is comparatively pricey and time overwhelming, causes suffocation to the solid performers, discourages to the poor performers (rejected), breeds unhealthy competition among the assessee, and bears adverse effects on those not hand-picked for assessment.

360 - Degree Appraisal:

Yet another technique accustomed appraise the employee's performance is 360 – degree appraisal: This technique was 1st developed and formally utilized by General utility of USA in 1992. Then, it traveled to alternative countries as well as India. In India, corporations like Reliance Industries, Wipro Corporation, Infosys Technologies, Thermax, Thomas Cook etc., are victimization this technique for critical the performance of their workers. This feedback primarily based technique is mostly used for ascertaining coaching and development needs, instead of for pay will increase.

Under 360 – degree appraisal, performance data like employee's skills, skills and behaviors, is collected "all around" associate worker, i.e., from his/her supervisors, subordinates, peers and even customers and purchasers.

In alternative worlds, in 360-degree feedback appraisal system, associate worker is appraised by his supervisor, subordinates, peers, and customers with whom he interacts within the course of his job performance. Of these appraisers offer data or feedback on associate worker by finishing survey questionnaires designed for this purpose.

All data therefore gathered is then compiled through the computerized system to organize personalized reports. These reports of Pine Tree State is a sure given to me workers being rated. They then American stated me appraiser—be it one's superior, subordinates or peers—and share the knowledge they feel as pertinent and helpful for developing an improvement set up.

In 360 – degree feedback, performance appraisal being supported feedback "all around", associate employee is probably going to be additional correct and realistic. All the same, like alternative ancient ways, this technique is additionally subject to suffer from the sound judgment on a part of the appraiser. for instance, whereas supervisor could punish the worker, by providing feedback, a peer, being influenced by 'give and take feeling' could provides a rave review on his/her colleague.

Cost Accounting Method:

This technique evaluates associate employee's performance from the financial advantages the worker yields to his/her organization. This is often observed by establishing a relationship between the prices concerned in holding the worker, and therefore the advantages associate organization derives from Him/her.

While evaluating associate employee's performance below this technique, the subsequent factors are taken into consideration:

1. Unit wise average price of production or service.
2. Quality of product made or service rendered.
3. Overhead value incurred.
4. Accidents, damages, errors, spoilage, wastage caused through uncommon wear and tear.

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5. relation with others.
6. value of the time supervisor spent in critical the worker.

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3.6 LIMITATIONS OF APPRAISAL

Some of the main limitations of performance appraisal are:

1. Bias of Appraiser
2. Ambiguity in Standards
3. Skimpy proof
4. Many Qualities stay while not Appraisal
5. Leniency or Strictness residence half-dozen.
6. Average Rating drawback
7. Influence of Man's Job
8. Similarity Error.

1. Bias of Asuppraiser:

The presence of 'Halo Effect' in analysis of workers is that the biggest weakness of this technique.

A high rate is given to favored workers whereas unfriendly workers are rated low.

2. Ambiguity in Standards:

If the standards aren't clear, the supervisors might follow totally different standards for various workers.

3. Skimpy Evidence:

A worker UN agency will impress the boss might get a positive analysis though his impression in his own department is also terribly poor. In such cases, the performance appraisal is going to be superfluous.

4. Many Qualities stay while not Appraisal:

Through performance appraisal, solely few qualities of workers are often measured. All people disagree from one another in terms of background, values and behavior.

5. Leniency or Strictness Tenancy:

Every judge has his own valuation procedure that is considered his own customary for analysis. As an example, some lecturers are strict in analysis of answer books whereas others are lenient. The lenient tendency is thought as 'Positive Leniency

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Error' whereas strict tendency is named as 'Negative Leniency Error'. The rating is also high or low relying upon the character of evaluators.

6. Average Rating Problem:

In order to relinquish terribly low or terribly high rating, the highest managers are needed to relinquish reasons to justify the rating. The foremost common error committed in performance appraisal is to relinquish average rating to all or any workers. Moreover, low rating antagonizes the subordinates.

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7. Influence of Man's Job:

There is an inclination to relinquish a high rating to extremely paid jobs. Therefore a senior worker might get the next rating than a junior worker.

8. Similarity Error:

The judge tries to seem those qualities in subordinates that he himself possesses. Those that show the similar characteristics are rated high.

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3.7 SUMMARY

Management development may be a systematic method of growth and development by that the managers develop their talents to manage. It's involved with not solely up the performance of managers however conjointly giving them opportunities for growth and development.

Executive development is that the whole of activities geared toward developing the talents and competencies of these that (will) have government positions in organizations. Whereas "executive" and "manager" and "leader" are typically used interchangeably, "executive" is usually wont to signify the highest five-hitter to 100% of the organization. Similarly, "development" and "training" and "education" are typically used as synonyms, but "development" is usually seen because a lot of encompassing of the 3 in terms of activities that build skills and competencies.

Each technique of performance appraisal has its strengths and weaknesses are also appropriate for one organization and non-suitable for an additional one. As such, there's no single appraisal technique accepted and employed by all organizations to live their employees' performance.

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3.8 REVIEW QUESTIONS

1. What are the methods of training?
2. What are the techniques of performance and appraisal with its limitations?
3. What is the difference between the traditional and modern methods?

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WAGE AND SALARY ADMINISTRATION

STRUCTURE

- 4.1 Learning Objective
- 4.2 Compensation and Benefits
- 4.3 Wage Concepts
- 4.4 Principles of Wage Administration
- 4.5 Wage Fixation
- 4.6 Employee Incentives and Benefits
- 4.7 ESOPs
- 4.8 Role of Monetary and Nonmonetary Benefits
- 4.9 Summary
- 4.10 Review Questions

4.1 LEARNING OBJECTIVE

After completion of this unit, you should be able to:

- Explain the compensation and benefits.
- Describe the wage concepts and its principles.
- Explain the employee incentives and benefits.
- Describe the benefits of monetary and nonmonetary

4.2 COMPENSATION AND BENEFITS

Compensation and benefits (abbreviated "C & B") could be a sub-discipline of human resources, targeted on worker compensation and edges political. It's illustrious within the UK as "total reward" and as "remuneration" in Australia and New Zealand.

Employee compensation and edges are divided into four basic categories:

1. Secured pay – associate degree a set financial (cash) reward paid by associate degree leader to a worker. The foremost common type of secured pay is base pay.
2. Variable pay – a non-fixed financial (cash) reward paid by associate degree leader to associate degree worker that's contingent discretion, performance,

or results achieved. The foremost common kinds of variable pay are bonuses and incentives.

3. Edges – programs associate degree leader uses to supplement employees' compensation, like paid time without work, medical insurance, company automobile, and more.
4. Equity-based compensation – stock or pseudo stock programs associate degree leader uses to produce actual or perceived possession within the company that ties associate degree employee's compensation to the long-run success of the corporate. The foremost common examples are stock choices.

Guaranteed pay

Guaranteed pay could be a fastened financial (cash) reward.

The basic part of secured pay is base pay that is paid on associate degree hourly, daily, weekly, bi-weekly or monthly rate. Base pay is usually employed by staff for in progress consumption. Several countries dictate the minimum base pay process a pay. Employees' individual skills and level of expertise leave area for differentiating financial gain levels inside a job-based pay structure.

In addition to base pay, there is different pay components that are paid primarily based alone on employee/employer relations, like pay and seniority allowance.

Variable pay

Variable pay could be a non-fixed financial (cash) reward that's contingent discretion, performance, or results achieved. There are differing types of variable pay plans, like bonus schemes, sales incentives (commission), overtime pay, and more.

An example wherever this kind of arrange is current is however the important estate business compensates property agents. a standard variable pay arrange may be the sales person receives five hundredth of each dollar they carry in up to tier of revenue at that they then raise to eighty fifth for each dollar they carry in going forward. Typically, this kind of arrange is predicated on associate degree annual amount of your time requiring a "resetting" annually back to the place to begin of fifty. typically this kind of arrange is run therefore the sales person ne'er resets or falls all the way down to a lower level. It additionally includes Performance joined Incentive that is variable and will vary from one hundred and thirtieth to 1/3 as per performance of the individual as per his key result areas (KRA).

Benefits

There is a good form of edges offered to staff like Paid Time-Off (PTO), numerous sorts of insurance (such as life, medical, dental, and disability), participation in a very pension plan (such as pension or 401(k)), or access to a corporation automobile, among others. Some edges are obligatory that are regulated by the govt whereas others are voluntarily offered to meet the requirement of a selected worker population. Profit

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plans are generally not provided in money however kind the premise of associate degree employees' pay package together with base pay and bonus.

In the US, "qualified" worker profit plans should be offered to any or all staff, whereas "non-qualified" profit plans is also offered to a pick cluster like executives or different highly-paid staff. Once implementing a profit arrange, hour Departments should guarantee compliance with federal and state laws. Many nations and countries dictate totally different minimum edges like minimum paid time-off, employer's pension contribution, sick pay, among others.

Equity primarily based compensation

Equity primarily based compensation is associate degree leader compensation arrange mistreatment the employer's shares as worker compensation. the foremost common kind is stock choices, nevertheless employers use further vehicles like restricted stock, restricted stock units (RSU), worker stock purchase arrange (ESPP), and stock appreciation rights (SAR).

External equity

External equity refers to the similarity of the practices of different organization of identical sector. If perceived like this, it may be aforesaid that the program is taken into account competitive or outwardly equitable. Usually, these comparisons are drained external labor markets wherever the wages vary. There are numerous factors that contribute to make these variations, for instance, geographical location, education and work expertise.

Internal equity

Internal equity is employees' perception of their duties, compensation, and work conditions as compared with those of different staff in similar positions within the same organization. As this comparison is often created inside the corporate, issues with internal equity may end up in conflict among staff, mistrust, low morale, anger and even the adoption of legal actions. Employees will build the analysis of internal equity relating to 2 small print. On the one hand, procedural justice is that the person's perceived fairness of the method (assigned tasks) and procedures accustomed build choices regarding him/her. On the opposite hand, distributive justice refers to the perceived fairness within the distribution of outcomes (salaries). The classic objectives of equity primarily based compensation plans are retention, attraction of latest hires and positioning employees' and shareholders' interests with the long-run success of the corporate.

In most firms, compensation & edges (C & amp; B) style and administration falls below the umbrella of human-resources.

HR organizations in giant firms are generally divided into 3 sub-divisions: hour business partners (HRBPs), hour centers of excellence, and our shared services. C

& amp; B is associate degree hour center of excellence, like staffing and structure development (OD).

Employee compensation and benefits main influencers can be divided into two: internal (company) and external influencers.

The most important internal influencers are the business objectives, labor unions, internal equity (the idea of compensating employees in similar jobs and similar performance in a similar way), organizational culture and organizational structure.

The most important external influences are the state of the economy, inflation, unemployment rate, the relevant labor market, labor law, tax law, and the relevant industry habits and trends.

Bonus plans are variable pay plans. They have three classic objectives:

1. Adjust labor cost to financial results – the basic idea is to create a bonus plan where the company is paying more bonuses in ‘good times’ and less (or no) bonuses in ‘bad times’. By having bonus plan budget adjusted according to financial results, the company’s labor cost is automatically reduced when the company isn’t doing so well, while good company performance drives higher bonuses to employees.
2. Drive employee performance – the basic idea is that if an employee knows that his/her bonus depend on the occurrence of a specific event (or paid according to performance, or if a certain goal is achieved), then the employee will do whatever he/she can to secure this event (or improve their performance, or achieve the desired goal). In other words, the bonus is creating an incentive to improve business performance (as defined through the bonus plan).
3. Employee retention – retention is not a primary objective of bonus plans, yet bonuses are thought to bring value with employee retention as well, for three reasons: a) A well designed bonus plan is paying more money to better performers; a competitor offering a competing job-offer to these top performers is likely to face a higher hurdle, given that these employees are already paid higher due to the bonus plan. b) If the bonus is paid annually, employee is less inclined to leave the company before bonus payout; often the reason for leaving (e.g. dispute with the manager, competing job offer) ‘goes away’ by the time the bonus is paid. The bonus plan ‘buy’ more time for the company to retain the employee. c) Employees paid more are more satisfied with their job (all other things being equal) thus less inclined to leave their employer.

The idea voice communication bonus plans will improve worker performance is predicated on the work of Frederic Skinner, maybe the foremost authoritative man of science of the twentieth century. Mistreatment the idea of conditioning, Skinner claimed that associate degree organism (animal, human being) is shaping his/her voluntary behavior supported its alien environmental consequences – i.e. reinforcement or social control.

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This concept captured the hearts of the many, and so most bonus plans today are designed supported it, nevertheless since the late Nineteen Forties a growing body of empirical proof has recommended that these if-then rewards don't add a spread of settings common to the fashionable geographic point. The failings of the bonus arrange usually relate to appreciated the incorrect behavior. for instance, managers United Nations agency keep to the establishment, fireplace valuable (expensive) staff, and interact in immoral business practices can do higher short-run monetary outcomes (and so a bonus) than a manager United Nations agency is trying to initiate his or her thanks to higher profits. Once bonus plans are poorly thought out, they need the potential to wreck worker performance and cause regulative headaches. However, despite their failings, staff (and several employers) still read a good bonus arrange because the single greatest rational motive within the geographic point.

4.3 WAGE CONCEPTS

In economic science, the value paid to labor for its contribution to the method of production is named wages.

Labor is a crucial issue of production. If there's no labor to figure, all different factors, be it land or capital, can stay idle.

Thus, philosopher termed labor because the "creator of all value".

However, labor alone cannot manufacture as most of the assembly is that the results of joint efforts of various factors of production. Therefore, the share of the manufacture paid to labor for its production activity is named wage.

Definitions

"A wage could also be outlined because the add of cash paid below contract by associate degree leader to employee for services rendered." -Benham.

"Wages is that the payment to labor for its help to production." -A.H. Hansen

"Wage rate is that the value procured the utilization of labor." -Mc Connell

"A wage is value, it's the value paid by the leader to the employee on account of labor performed." -J.R. Turner

Types of Wages

In real observe, wages square measure of the many sorts as follows:

1. Piece Wages

Piece wages square measure the wages paid in line with the work done by the employee. To calculate the piece wages, the quantity of units created by the employee square measure taken into thought.

2. Time Wages

If the manual laborer is procured his services in line with time, it's referred to as time wages. For instance, if the labor is paid Rs. 35 per day, it'll be termed as time wage.

3. Money Wages

Cash wages seek advice from the wages paid to the labor in terms of cash. The wage paid to a employee is associate degree instance of money wages.

4. Wages in Kind

When the manual laborer is paid in terms of products instead of money, is named the wage in a similar way. These kinds of wages square measure common in rural areas.

5. Contract Wages

Under this sort, the wages square measure fastened within the starting for complete work. As an example, if a contractor is told that he are paid Rs. 25,000 for the development of building, it'll be termed as contract wages.

Concepts of Wages

The following square measure the 2 main ideas of wages:

- A. Nominal Wage
- B. Real Wage

A. cash Wages or Nominal Wages

The total quantity of cash received by the manual laborer within the method of production is named the money wages or nominal wages.

B. Real Wages.

Real wages mean translation of cash wages into real terms or in terms of commodities and services that cash should buy. They seek advice from the benefits of worker's occupation, i.e. the amount of the necessaries, comforts and luxuries of life which the worker can command in return for his services.

An example will make the things clear. Suppose 'A' receives Rs. 500 p.m. as money wages during the year. Suppose also that midway through the year the prices of commodities and services, that the worker buys, go up, on the average, by 50%.

It means that though the money wages remain the same, the real wages (consumption basket in terms of commodities and services) are reduced by 50%. Real wages also include extra supplementary benefits along with the money wages.

Distinction between Real and Money Wages

Adam Smith has distinguished the money wages and real wages on the following basis:

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1. Relation with Price

Keeping all other things constant, there exists inverse relation between real wages and price i.e. with the increase in price level real wages tend to decline and vice-versa.

2. Money and Real Wages

Ceterus paribus, an increase in money wages will lead to an increase in real wages. It is due to the reason that with the increase in money wages, a laborer can purchase more goods and services than before.

3. Basic Difference

According to Adam Smith, money wages are paid in terms of the quantity of money whereas real wages are paid in terms of necessities of life. Therefore money wages are expressed in terms of money and that of real wages in terms of goods and services.

4.4 PRINCIPLES OF WAGE ADMINISTRATION

The main objective of wage remuneration administration is to determine and maintain an evenhanded wage and remuneration system. This can be thus as a result of solely a properly developed compensation system allows leader to draw in, obtain, retain and encourage individuals of needed caliber and qualification in his/her organization. These objectives are often seen in additional orderly manner from the purpose of read of the organization, its individual workers and conjointly. There is a unit printed and mentioned subsequently.

Organizational Objectives

The compensation system ought to be punctually aligned with the organizational want and will even be versatile enough to modification in response to alter.

Accordingly, the objectives of system ought to be to:

1. Modify organization to own the number and quality of employees it needs.
2. Retain the workers within the organization.
3. Encourage workers permanently performance for more improvement in performance.
4. Maintain equity and fairness in compensation for similar jobs.
5. Accomplish flexibility within the system to accommodate organizational changes as and once these occur.
6. Build the system efficient.

Individual Objectives

From individual employee's purpose of read, the compensation system ought to have the subsequent objectives:

1. Ensures a good compensation.
2. Provides compensation in line with employee's value.
3. Avoids the possibilities of favoritism from creep in once wage rates area unit allotted.
4. Enhances worker morale and motivation.

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Collective Objectives

These objectives include:

1. Compensation in before inflation.
2. Matching with market rates.
3. Increase in compensation reflective increase within the prosperity of the corporate.
4. Compensation system free from management discretion.

Beach has listed the 5 objectives of wage and remuneration administration:

1. To recruit persons for a firm
2. To regulate pay-rolls
3. To satisfy individuals, scale back the incidence of turnover, grievances, and frictions.
4. To encourage individuals to perform higher
5. To keep up an honest public image.

Principles of wage and remuneration administration

The main principles that govern wage and remuneration fixation area unit three:

1. External Equity
2. Internal Equity
3. Individual value.

1. External Equity

This principle acknowledges that factors/variables external to organization influence levels of compensation in organization. These variables area unit like demand and provide of labor, the market rate, etc. If these variables aren't unbroken into thought whereas fixing wage and remuneration levels, these could also be skimpy to draw in and retain workers within the organization. The principles of external equity make sure that jobs area unit fairly stipendiary compared to similar jobs within the labor market.

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2. Internal Equity

Organizations have varied jobs that are unit relative in worth terms. In different words, the values of assorted jobs in organization are a unit comparative. At intervals your own Department, pay levels of the lecturers (Professor, Reader, and Lecturer) are unit completely different as per the perceived or real variations between the values of jobs they perform.

This relative value of jobs is determined by job analysis. Thus, a perfect compensation system ought to establish and maintain applicable differentials supported relative values of jobs. In different words, the compensation system ought to make sure that harder jobs ought to be paid a lot of.

3. Individual Worth

According to this principle, a private ought to be paid as per his/her performance. Thus, the compensation system, as far as potential, allows the individual to be rewarded in line with his contribution to organization.

Alternatively speaking, this principle ensures that every individual's pay is truthful compared to others doing the same/similar jobs, i.e., 'equal purchase equal work'. In add and substance, a sound compensation system ought to cover factors like adequacy of wages, social balance, provide and demand, truthful comparison, equal purchase equal work and work activity.

4.5 WAGE FIXATION

Steps concerned in crucial wage and pay rates square measure as follows:

1. Job Analysis

A job analysis describes the duties, responsibilities, operating conditions and interrelationships between the tasks because it is and therefore the different jobs with that it's associated. Job descriptions square measure crucial in coming up with pay systems, for they assist to spot vital job characteristics. They additionally facilitate verify, outline and weigh compensate factors (factors that a corporation is willing to pay-skill, experience, effort and dealing environment). When crucial the task specifications, the particular method of grading, rating or evaluating the task happen. Employment is rated so as to work out its price in regard to all the opposite jobs within the organization that square measure subject to analysis. Ensuing step is that of providing the task with a worth. This involves changing the relative job values into specific financial values or translating the task categories into rate ranges.

2. Conduct the pay Survey

Compensation or pay surveys play a central role in evaluation jobs. Nearly each leader, therefore, conduct a minimum of an off-the-cuff survey. Employers use pay surveys in 3 ways (i) Survey information square measure went to worth bench mark jobs that anchor the employer's pay scale and around that the opposite jobs square measure slotted, supported their relative value to the firm (ii) Some Jobs (generally two hundredth or more) of associate degree employer's position square measure typically priced directly within the market place (rather than relative to the firm's benchmark jobs), supported a proper or informal survey of what competitive corporations square measure paying for comparable jobs (iii) Surveys additionally collect information on advantages like insurance, leave and vacations to produce a basis for selections relating to worker advantages.

Salary surveys are formal or informal. Informal phone surveys square measure smart for quickly checking on a comparatively tiny variety of simply known and quickly recognized jobs. Like once a company's 60 minutes manager desires is to substantiate the pay at that to advertise a fresh open cashier's job. In formal surveys, most corporations either use the results of prepackaged surveys obtainable from the analysis bodies, employer's associations, government labor bureaus etc. or they participate in wage surveys and receive copies of results instead they conduct their own. These surveys could also be dole out by armored form, telephone, or personal interviews with different managers and personnel agencies. Wage and pay surveys give several styles of helpful info regarding variations in wage levels for specific styles of occupations. This may have a good influence on associate degree organizations compensation policy.

3. Cluster Similar Jobs into Pay Grades

After the results of job analysis and pay surveys are received, the committee will communicate the task of distribution pay rates to every job, however it'll typically wish to 1st cluster jobs into pay grades. A pay grade is comprised of jobs of roughly equal problem or importance as determined by job analysis. Pay grading is important for pay functions as a result of rather than having to touch upon many pay rates, the committee may solely need to specialize in say eight or twelve.

4. Worth every Pay Grade

The next step is to assign pay rates to pay grades. Distribution pay rates to every pay grade are sometimes accomplished with a wage curve. The wage curve depicts diagrammatically the pay rates presently being obtained jobs in every pay grade, relative to the points or rankings appointed to every job or grade by the task analysis. The aim of wage curve is to point out the link between (i) the worth of the task as determined by one among the task analysis ways and (ii) this average pay rates for the grades. If there's reason to believe that this pay rates square measure well out of step with the prevailing market pay rates for those jobs, bench mark jobs among every grade square measure chosen and priced via a pay survey. The new market primarily based pay rates square measure then aforethought on the wage curve.

The steps concerned in evaluation jobs with a wage curve are:

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1. Notice the typical procures every pay grade, since every of the pay grades consist of many jobs.
2. Plot the pay rates for every pay grade. Then work a line, referred to as a wage line through the points simply aforethought: This may be done either freedom or by employing a method.
3. Worth the roles. Wages on the wage line square measure the target wages or pay rates for the roles in every pay grade.

5. Fine-Tune Pay Rates

Fine standardization involves correcting out of line rates and developing rate ranges:

ó Developing Rate Ranges

Most employers don't pay only 1 rate for all jobs in a very specific pay grade. Instead, they develop rate ranges for every grade in order that there may be totally different levels and corresponding pay rates among each pay grade. The speed vary is sometimes engineered round the wage line or curve. One different is to haphazardly want a most and minimum rate for every grade. As another, some employers enable the speed vary for every grade to become wider for the upper pay ranges reflective the bigger demands and performance variability inherent in these a lot of complicated jobs. There square measure many advantages of exploitation rate ranges for every pay grade. Firstly, the leader will take a lot of versatile stance with reference to the marketplace. It becomes easier to draw in knowledgeable, higher paid staff into a pay grade wherever the beginning pay for the bottom step could also be too low to draw in such knowledgeable personnel. Secondly, Rate ranges may enable the leader to produce for performance variations among staff among an equivalent grade or between those with totally different seniorities.

ó Correcting out of Line Rates

The typical current procure employment could also be too high or too low, relative to different jobs within the firm. If a rate falls well below the road, a pay rise for that job could also be needed. If the speed falls well higher than the wage line, pay cuts or a pay freeze could also be needed. Underpaid staff ought to have their wages raided to the minimum of the speed vary for his or her pay grade, presumptuous the organization desires to retain those staff and has the funds to try to therefore. This may be done now or in one or 2 steps.

There square measure many ways that to deal with the over paid staff:

1. To freeze the speed paid to staff during this grade unless general pay will increase bring the opposite jobs into line with it.
2. To transfer or promote some or all of the workers concerned to jobs that they will lawfully be paid their current pay rates.
3. To freeze the speed for a few times, throughout which era the overpaid staff ought to be transferred or promoted. If it cannot be done, then the speed at that

these staff square measure paid is move the most within the pay vary for his or her pay grade.

6. Wage Administration Rules

The development of rules of wage administration has got to be wiped out ensuing step. it's thought of sensible within the interests of the priority and additionally the staff that the data regarding average salaries and ranges within the salaries of cluster ought to be created legendary to the workers concerned; for secrecy during this matter might produce discontentment and it should also vitiate the potential motivating effects of speech act. Finally, the worker is appraised and therefore the wage mounted for the grade he's found work.

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4.6 EMPLOYEE INCENTIVES AND BENEFITS

What is associate degree incentive?

Rewards or recognition offered in exchange for work performance.

Employee edges and (especially in British English) edges in a similar way (also known as fringe edges, perquisites, or perks) embody varied forms of non-wage compensation provided to workers additionally to their traditional wages or salaries. In instances wherever associate degree worker exchanges (cash) wages for a few different variety of profit is mostly remarked as a 'salary packaging' or 'salary exchange' arrangement. In most countries, most sorts of worker edges area unit nonexempt to a minimum of some extent.

Employee edges area unit a crucial space that ought to be thought of by all employers. If you want to recruit new employees, you'll virtually definitely have to be compelled to consider the accessible worker profit schemes as some way of bolstering your pay providing. This can be notably the case if you're competitor with different firms in terms of recruitment; often, potential workers can consider the advantages package being offered and calculate the result that this may wear their regular payment. Edges area unit a crucial means for firms to encourage new employees to affix their business and, similarly, will cut back employees turnover if they're engaging enough to existing employees.

Frequently, however, edges schemes area unit confused with incentives. In reality, these are a unit 2 terribly totally different ideas and every with a particular use. Victimization one for the needs of the opposite will incur important wastage, and is unlikely to fulfill your aims.

Benefits

In essence, edges schemes supply specific, usually non-monetary additions to associate degree employee's regular payment. These edges would possibly embody

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an organization pension scheme; non-public health insurance; child care vouchers, and so on. Edges schemes are often used for a range of functions. These would possibly embody the retention of employees and therefore the encouragement of a way of worker loyalty. Moreover, a beautiful edges package will tempt workers aloof from different firms.

Incentives

Benefits schemes area unit a typical a part of associate degree employer's providing to their employees; staff area unit secured the advantages that they're ab initio offered, notwithstanding their performance. For instance, a sales worker would still have access to the corporate pension theme, though they failed to meet their sales targets. Incentives, however, dissent during this respect. Incentives are often thought of as similar in nature to performance connected pay; they're joined to targets, and therefore the nature of the motivation offered can often rely on the performance of the worker in question. To require a topical example, investment bankers receive associate degree annual bonus. The scale of this bonus, however, depends on the success of the worker throughout the year.

Benefits and incentives schemes are often operated side-by-side with a good degree of success. Indeed, it's often a lot of economical from associate degree employer's purpose of read to connect qualifications to some edges granted to employees; during this means the advantages become incentives, and productivity can tend to extend if the incentives area unit engaging enough. Clearly, however, it's necessary to watch the success of incentive schemes. For instance, if few workers are a unit meeting their targets, this would possibly recommend that either the targets area unit unreasonable, or that there's not the motivation to try to therefore. In these cases, employers would possibly take into account reducing edges and increasing incentives, lowering targets, or just creating the incentives a lot of engaging to their workers. During this means, consultation with employees is a crucial a part of the event of either edges or incentives schemes.

As associate degree leader or associate degree worker, it's necessary to grasp the vary of advantages and incentives offered by your leader, or accessible to you as an organization. A lot of data on all aspects of advantages and incentives is accessible in articles throughout this web site.

Incentive plans area unit tools utilized by small-business homeowners to encourage, acknowledge and reward exceptional performance in their workers. Incentive plans generally surpass customary regular payment and profit agreements and typically area unit given within the variety of money bonuses, further vacation days or gift things of non-monetary price. There is a unit various blessings related to encouraging small-business staffers through the utilization of incentives.

Motivation

Incentive plans were created for the categorical purpose of urging workers to inspire themselves to higher action levels. Incentive plans that reward workers for reaching pre-established goals give encouragement and provides staffers one thing to aim for. The advantage to the leader is augmented levels of productivity.

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Increased Earnings

Most incentive plans area unit tied to earnings. A lot of revenue associate degree worker generates for a business, a lot of he's rewarded through his incentive arrange. Businesses providing incentive plans have the advantage of seeing their bottom line rise in direct proportion to the sales their workers generate. During this sense, incentive plans are often independent; therein the business primarily pays for performance.

Loyalty

Employees UN agency have the flexibility to completely impact their earning potential through incentive plans area unit a lot of seemingly to be loyal to the corporate they represent. This can be very true if incentive plans have residual price. For instance, if associate degree nondepository financial institution worker gets a bonus for language up a brand new shopper, so gets a residual bonus for each future year that shopper renews, earnings will increase over the lifetime of his employment. It becomes a bonus to the worker and leader for there to be longevity within the skilled relationship.

Reduced Turnover

Employees typically hunt for new employment opportunities after they feel they're under-compensated or unappreciated. Incentive plans area unit some way of satisfying top-performing workers and showing them you appreciate their contributions to the business. The advantage to the leader is reduced turnover that conjointly ends up in time and cash savings associated with recruiting new hires. Businesses may additionally attract a lot of qualified candidates by providing incentive plans.

Collaborative Efforts

When workers work along on team incentive plans, they establish a way of chumminess, actuation along for the commonweal. This will strengthen bonds between colleagues, managers and business homeowners. The advantage of unified personnel could be a lot of economical, pleasant work atmosphere for all. It may also enhance regular work relationships between departments and associates, leading to augmented productivity.

4.7 ESOPS

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A worker stock possession set up (ESOP) could be a qualified defined-contribution worker profit (ERISA) set up designed to take a position primarily within the stock of the sponsoring leader. ESOPs are unit "qualified" within the sense that the ESOP's sponsoring company, the commercialism stockholder and participants receive numerous tax edges. ESOPs are unit usually used as a company finance strategy and also are accustomed align the interests of a company's staff with those of the company's shareholders.

Since employee stock ownership plan shares are unit a part of employees' remuneration for work provided for the corporate, ESOPs are often accustomed keep set up participants centered on company performance and share value appreciation. By giving set up participants an interest in seeing that the company's stock performs well, these plans are unit believed to encourage participants to try to what is best for shareholders, since the participants themselves are unit shareholders. Staff is a unit given such possession usually with no direct prices. The provided shares could also be control during a trust for safety and growth till the worker retires or resigns from the corporate. Once a worker retires or resigns, the shares are unit given back to the corporate for any distribution or are unit fully voided.

Employee-owned firms are unit corporations with majority holdings by their own staff. As such, these organizers are unit like cooperatives, except that the company's capital isn't equally distributed. Several of those corporations solely offer pick rights to specific shareholders. Senior staff might also tend the advantage of obtaining a lot of shares compared to new staff.

Stock possession plans offer packages that act as further edges for workers so as to stop hostility and keep a particular company culture that company managements wish to take care of. The plans additionally stop company staff from taking an excessive amount of company stock.

Other varieties of ownership

Other versions of ownership embrace direct purchase plans, stock choices, restricted stock, phantom stock and stock appreciation rights.

Direct-purchase plans let staff purchase shares of their various corporations with their personal after-tax cash. Some countries offer special tax-qualified plans that allow staff purchases stocks of corporations at discounted costs.

Restricted stock offer the workers the correct to receive shares as a present or as a purchased item when specific restrictions are a unit met like operating for a particular amount of your time or hit execution targets.

Stock choices offer staff the chance to shop for shares at a hard and fast value for a collection amount of your time.

Phantom stock provides money bonuses permanently worker performance. These bonuses equate to the worth of a specific range of shares.

Stock appreciation rights offer staff the correct to boost the worth of an allotted range of shares. These shares area unit sometimes paid in money.

4.8 ROLE OF MONETARY AND NONMONETARY BENEFITS

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Motivating staff are often difficult for any business owner or manager. In some industries, financial rewards area unit enough to urge the foremost out of staff, whereas in different industries, different forms of incentives could also be more practical. Variations between financial and non-monetary incentives are a unit easy to differentiate, in some respects, however their impacts on associate degree employee's performance are often somewhat tougher to live.

Types

One of the first variations between financial and non-monetary incentives is within the sort of reward they provide. Because the name implies, a financial incentive could be a money-based reward given once associate degree worker meets or exceeds expectations. Financial incentives will embody money bonuses, stock choices, profit-sharing associate degree the other sort of reward that will increase an employee's compensation. Saint Ballentine, Nora McKenzie, Allen Wysocki and Karl Kepner, at the University of FL, contend that non-monetary awards tend to return with the promise of a chance. Opportunities will embody break day from work, versatile work schedules or maybe positive changes within the work atmosphere.

Purpose

The purpose of financial and non-monetary incentives is a unit similar. Solely slight variations could exist between the 2 in what they're designed to accomplish. A financial incentive is mostly awarded for employment well done and is usually one thing that the worker will try for. These are a unit typically offered within the style of some sort of bonus. However, the aim of a non-monetary incentive is to usually reward the worker once the actual fact of doing a decent job. This could not continually be the case for each sort of non-monetary incentive, however these rewards don't seem to be usually one thing the worker works toward.

Effectiveness

Both financial and non-monetary incentives are often effective within the geographical point, however to variable degrees. financial incentives tend to be more practical once the worker is truly intended by cold, currency or extra types of payment that increase his total compensation. However, non-monetary incentives are often even as effective in motivating worker behavior. Citing Bob Lord Nelson, the questionable "guru of many thanks," fortified wine Ryan indicates that one in all the foremost

necessary rewards that staff report receiving is solely praise and recognition from the individuals they work for. This can be noted as being even as effective as any forms of financial incentives.

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Problems

Another distinction between financial and non-monetary incentives area unit the potential issues related to every. Each could encourage be effective motivators in bound contexts, however as Saint Ballentine, Nora McKenzie, Allen Wysocki and Karl Kepner at the University of FL note, the performance-based financial award tends to encourage compliance instead of creative thinking and innovation. In different words, the worker acts during a means that permits him to receive the financial award, instead of thinking outside the box. His motivation is to create the money and not essentially to enhance the corporate or gain extra praise from his leader.

4.9 SUMMARY

Compensation and benefits (abbreviated "C & B") could be a sub-discipline of human resources, targeted on worker compensation and edges political. It's illustrious within the UK as "total reward" and as "remuneration" in Australia and New Zealand. In economic science, the value paid to labor for its contribution to the method of production is named wages. Labor is a crucial issue of production. If there's no labor to figure, all different factors, be it land or capital, can stay idle. Thus, philosopher termed labor because the "creator of all value".

The main objective of wage remuneration administration is to determine and maintain an evenhanded wage and remuneration system. This can be thus as a result of solely a properly developed compensation system allows leader to draw in, obtain, retain and encourage individuals of needed caliber and qualification in his/her organization. These objectives are often seen in additional orderly manner from the purpose of read of the organization, its individual workers and conjointly. There is a unit printed and mentioned subsequently.

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A worker stock possession set up (ESOP) could be a qualified defined-contribution worker profit (ERISA) set up designed to take a position primarily within the stock of the sponsoring leader. ESOPs area unit "qualified" within the sense that the ESOP's sponsoring company, the commercialism stockholder and participants receive numerous tax edges. ESOPs area unit usually used as a company finance

strategy and also are accustomed align the interests of a company's staff with those of the company's shareholders.

Motivating staff are often difficult for any business owner or manager. In some industries, financial rewards are not enough to urge the foremost out of staff, whereas in different industries, different forms of incentives could also be more practical. Variations between financial and non-monetary incentives are not easy to differentiate, in some respects, however their impacts on associate degree employee's performance are often somewhat tougher to live.

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4.10 REVIEW QUESTIONS

1. What is definition of compensation and benefits?
2. What are the wage concepts and its principles?
3. What are the employee incentives and benefits?
4. What are the benefits of monetary and nonmonetary?

LABOR LAWS

STRUCTURE

- 5.1 Learning Objective
- 5.2 Industrial Dispute Act 1947
- 5.3 Industrial Employment (Standing Orders) Act 1946
- 5.4 Trade Unions Act 1926
- 5.5 Contract Labor Act
- 5.6 Summary
- 5.7 Review Questions

5.1 LEARNING OBJECTIVE

After completion of this unit, you should be able to:

- Explain the Industrial Dispute Act 1947.
- Explain the Industrial Employment Act 1946.
- Describe the Trade Unions Act 1926.
- Describe the Contract Labor Act.

5.2 INDUSTRIAL DISPUTE ACT 1947

The Industrial Disputes Act 1947 extends to the whole of India and regulates Indian labour law so far as that concerns trade unions. It came into force April 1, 1947.

Objective

The objective of the Industrial Disputes Act is to secure industrial peace and harmony by providing machinery and procedure for the investigation and settlement of industrial disputes by negotiations.

The laws apply only to the organised sector. Chapter V-B, introduced by an amendment in 1976, requires firms employing 300 or more workers to obtain government permission for layoffs, retrenchments and closures. A further amendment in 1982 (which took effect in 1984) expanded its ambit by reducing the threshold to 100 workers.

The Act also lays down:

1. The provision for payment of compensation to the workman on account of closure or lay off or retrenchment.
2. The procedure for prior permission of appropriate Government for laying off or retrenching the workers or closing down industrial establishments
3. Unfair labour practices on part of an employer or a trade union or workers.

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Applicability

The Industrial Disputes Act extends to whole of India and applies to every industrial establishment carrying on any business, trade, manufacture or distribution of goods and services irrespective of the number of workmen employed therein.

Every person employed in an establishment for hire or reward including contract labour, apprentices and part-time employees to do any manual, clerical, skilled, unskilled, technical, operational or supervisory work, is covered by the Act.

This Act though does not apply to persons mainly in managerial or administrative capacity, persons engaged in a supervisory capacity and drawing > 10,000 p.m or executing managerial functions and persons subject to Army Act, Air Force and Navy Act or those in police service or officer or employee of a prison.

Applicability of Parent Act

Trades Dispute Act.

Related Sections Of The Act

Section 1 : Short title, and commencement

Section 9-B: Power of Government to exempt

Important Definitions

Section 2A : Appropriate Government

Any industry carried on by or under the authority of the Central Govt, or by a railway company or a Dock Labour Board, or the Industrial Finance Corporation of India Ltd, or the ESIC, or the board of trustees of the Coal Mines PF, or FCI, or LIC or in relation to any other industrial dispute, the state Government.

Section 2J : Industry

The definition of Industry under the Act is taken from the Supreme Court's judgement in Bangalore water Supply and Sewerage Board v. A. Rajappa.

Triple Test formulae The organisation is Prima Facie an industry if it is

1. A systematic activity;
2. Organised by co-operation between an employer and an employee;

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3. for the production of goods and services calculated to satisfy human wants and wishes. (not spiritual or pious in nature but inclusive of material things or services geared to seek celestial bliss)

Section 2BB: Banking company

Section 2G : Employer

Section 2J : Industry

Section 2K : Industrial dispute

Section 2A : Industrial dispute between individual and employer

Section 2KA: Industrial establishment or undertaking

Section 2KK: Insurance company

Section 2LA: Major port

Section 2LB: Mine

Section 2N : Public utility service

Section 2O :

Section 2RR: Wages

Section 2S : Workmen (Including an Apprentice) industrial act

Related Schedules

Schedule I - S 2(n)(6): Industries Which May Be Declared Public Utility Services tamilnesan

Schedule II - S7 : Matters Within The Jurisdiction Of Labour Courts

Schedule III - S7A : Matters Within The Jurisdiction Of Industrial Tribunal

Schedule IV - NOTICE OF CHANGE

Schedule V - UNFAIR LABOUR PRACTICE

5.3 INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT 1946

An Act to require employers in industrial establishments formally to define conditions of employment under them

Whereas it is expedient to require employers in industrial establishments to define with sufficient precision the conditions of employment under them and to make the said conditions known to workmen employed by them.

It is hereby enacted as follow :

1. **Short title, extent and application.-** (1) This act may be called the Industrial Employment (Standing Orders) Act, 1946.
2. It extends to 5[the whole of India 6[* * *].]

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3. It applies to every industrial establishment wherein one hundred or more workmen are employed, or were employed on any day of the preceding twelve months:

Provided that the appropriate Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any industrial establishment employing such number of number of persons less than one hundred as may be specified in the notification :

⁸[* * * *]

⁹[(4) Nothing in this Act shall apply to-

¹ For Statement of Objects and Reasons, see Gaz., of India, 1946, Pt. V, pp. 179 & 180 ² Came into force w.e.f. 23-12-1963, vide Noti. No. S.O., 3594 dt. 23-12-1963

³ Came into force w.e.f. 17.5.1982 vide Noti. No. S.O. 326 (E) dated 17-5-1982 (1982 CCL-III-146)

⁴ **History of the Act.-** The Act has been amended by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1943; The A.O. 1950; Act 3 of 1951; Act 36 of 1956; Act 16 of 1961; Act 39 of 1963; 51 of 1970 and 18 of 1982,

Object of c Act.- That the object of the Act is to have uniform Standing Orders providing for the matters enumerated in the Schedule to the Act, that it was not intended that there should be different conditions of service for those who are employed before and those employed after the Standing Orders came into force and finally, once the Standing Orders come into the force, they bind all those presently in the employment of the concerned establishment as well as those who are appointed thereafter. *Agra Electric Supply Co. Ltd. v. Aladdin*, (1969) 2 SCC 598; *U.P. Electric Supply Co. Ltd. v. Their Workman*, (1972) 2 SEC 54.

⁵ Subs. by the A.O. 1950, for "all the Provinces of India" ⁶ Omitted by Act No. 51 of 1970.

⁷ Subs. by Act No. 16 of 1961, S. 2 for sub-section (3)

⁸ The 2nd proviso to sub-section (3) omitted by Act No. 39 of 1963

- i. any industry to which the provisions of Chapter VII of the Bombay Industrial Relations Act, 1946, apply; or
- ii. any industrial establishment to which the provisions of the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 apply :

Provided that notwithstanding anything contained in the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961, the provisions of this Act shall apply to all industrial establishments under the control of the Central Government .]

2. **Interpretation.-** In this Act, unless there is anything repugnant in the subject or context

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¹⁰[(a) "appellate authority" means an authority appointed by the appropriate Government by notification in the Official Gazette to exercise in such area as may be specified in the notification the functions of an appellate authority under this Act :

Provided that in relation to an appeal pending before an Industrial Court or other authority immediately before the commencement of the Industrial Employment (Standing Orders) Amendment Act, 1963, that Court or authority shall be deemed to be the appellate authority:]

(b) "appropriate Government" means in respect of industrial establishments under the control of the Central Government or a ¹¹[Railway administration] or in a major Port, mine or oil field, the Central Government, and in all other in all other cases the State Government :

¹²[Provided that where question arises as to whether any industrial establishment is under the control of the Central industrial establishment is under the control of the Central Government that Government may, either on a reference made to it by the employer or the workman or a trade union or other representative body of the workmen, or on its own motion and after giving the parties an opportunity of being heard, decide the question and such decision shall be final and binding on the parties :]

¹³[(c) "Certifying Officer" means a Labour Commissioner or a Regional Labour Commissioner, and includes any other officer appointed by the appropriate Government, by notification in the Official Gazette, to perform all or any of the functions of a Certifying Officer under this Act:]

(d) "employer" means the owner of an industrial establishment to which this Act for the time being applies, and includes-

9 Added by ibid

10 Subs. by Act No. 39 of 1963

11 Subs. by the A.O. 1950, for "Federal railway". 12-Ins. by Act No. 18 of 1982 (w.e.f. 17-5-1982 13 Subs. by Act No. 16 of 1961, S. 3, for cl. (c).

- i. in a factory, any person named under ¹⁴[clause (f) of sub-section (1) of Section 7 of the Factories Act, 1948], as manager of the factory;
- ii. in any industrial establishment under the control of any department of any Government in India, the authority appointed by such Government in this behalf, or where no authority is so appointed, the head of the department;
- iii. in any other industrial establishment, any person responsible to the owner for the supervision and control of the industrial establishment;

(e) "industrial establishment" means

- i. (i) an industrial establishment as defined in clause (ii) of Section 2 of the Payment of Wages Act, 1936, or
- ii. ¹⁵[(ii) a factory as defined in clause (m) of Section 2 of the Factories

Act, 1948, or]

- iii. (iii) a railway as defined in clause (4) of Section 2 of the Indian Railway Act, 1890, or
- iv. (iv) the establishment of a person who, for the purpose of fulfilling a contract with the owner of any industrial establishment, employs workmen;
- v. (f) "prescribed" means prescribed by rules made by the appropriate Government under this Act ;
- vi. (g) "standing orders" means rules relating to matters set out in the Schedule:
- vii. (h) "trade union" means a trade union for the time being registered under the Indian Trade Union Act, 1926;
- viii. ¹⁶[(i) "wages" and "workman" have the meanings respectively assigned to them in clauses (rr) and (s) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947).]

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4. **Submission of draft standing orders.**-(1) Within six months from the date on which this Act becomes applicable to an industrial establishment, the employer shall submit to the Certifying Officer five copies of the draft standing orders proposed by him for adoption in this industrial establishment.
5. Provision shall be made in such draft for every matter set out in the Schedule which may be applicable to the industrial establishment, and where Model standing orders have been prescribed shall be, so far as is practicable, in conformity with such model.
6. The draft standing orders submitting under this section shall be accompanied by a statement giving prescribed particulars of the workmen employed in the industrial establishment including the name of the trade union, if any, to which they belong.
7. Subject to such conditions as may be prescribed, a group of employers in similar industrial establishments may submit a joint draft of standing orders under this section.
8. **Conditions for certification of standing orders.**-Standing orders shall be certifiable under this Act if--

14 Subs. by S. 3, *ibid*, for "cl. (e) of sub-section (1) of S. 9, the Factories Act, 1934".

15 Subs. by Act No. 16 of 1961, S. 3, for sub clause (ii)

16 Subs by Act No. 18 of 1982 (w.e.f. 17-5-1982).

- (a) provision is made therein for every matter set out in the Schedule which is applicable to the industrial establishment, and
- (b) the standing orders are otherwise in conformity with the provisions of this Act; and it ¹⁷ [shall be the function] of the Certifying Officer

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or appellate authority to adjudicate upon the fairness or reasonableness of the provisions of any standing orders.

1. **Certification of standing orders.**-(1) On receipt of the draft under Section 3, the Certifying Officer shall forward a copy thereof to the trade union, if any, of the workmen, or where there is no such trade union, if any, of the workmen or where there is no trade union, to the workmen in such manner as may be prescribed, together with a notice in the prescribed form requiring objections, if any, which the workmen may desire to make to the draft standing orders to be submitted to him within fifteen days from the receipt of the notice.
2. After giving the employer and the trade union or such other representatives of the workmen as may be prescribed an opportunity of being heard, the Certifying Officer shall decide whether or not any modification of or addition to the draft submitted by the employer is necessary to render the draft standing orders certifiable under this Act, and shall make an order in writing accordingly.
3. The Certifying Officer shall thereupon certify the draft standing orders, after making any modifications there in which his order under sub-section (2) may require, and shall within seven days thereafter send copies of the certified standing orders authenticated in the prescribed manner and of his order under sub-section (2) to the employer and to the trade union or other prescribed representatives of the workmen.
6. **Appeals.**-(1) [Any employer, workmen, trade union or other prescribed representatives of the workmen] aggrieved by the order of the Certifying Officer under sub-section (2) of Section 5 may, within 19 [thirty days] from the date on which copies are sent under sub-section (3) of that section, appeal to the appellate authority, and the appellate authority, whose decision shall be final, shall by order in writing confirm the standing orders either in the form certified by the Certifying Officer or after amending the said standing orders by making such modifications thereof or additions there to as it thinks necessary to render the standing orders certifiable under this Act.
 - (2) The appellate authority shall, within seven days of its order under sub-section (1) send copies thereof to the Certifying Officer, to the employer and to the trade union or other prescribed representatives of the workmen, accompanied, unless it has confirmed without amendment the standing orders as certified by the Certifying Officer, by copies of the standing orders as certified by it and authenticated in the prescribed manner.
7. **Date of operation of standing orders.**--Standing orders shall, unless an appeal is preferred under Section 6, come into operation on the expiry of thirty days from the date on which authenticated copies thereof are sent under sub-section (3) of Section 5, or where an appeal as aforesaid is preferred, on the expiry of seven days from the date on 17 Subs, by Act No. 36 of 1956, S. 32, for 'shall

not be the function". (w.e.f. 17-9-1956), 18 Subs, by Act No. 18 of 1982 (w.e.f. 17-5-1982). 19 Subs, by Act No. 1 of 1961; s. 4, for twenty-one days".

which copies of the order of the appellate authority are sent under sub-section (2) of Section 6.

4. Register of standing orders. -- A copy of all standing orders as finally certified under this Act shall be filed by the Certifying Officer in a register in the prescribed form maintained for the purpose, and the Certifying Officer shall furnish a copy thereof to any person applying there for on payment of the prescribed fee.
 5. Posting of standing orders.--The text of the standing orders as finally certified under this Act shall be prominently posted by the employer in English and in the language understood by the majority of his workmen on special boards to be maintained for the purpose at or near the entrance through which the majority of the workmen enter the industrial establishment and in all departments thereof where the workmen are employed.
 6. Duration and modification of standing orders.--(1) Standing orders finally certified under this Act shall not, except on agreement between the employer and the workmen 20[or a trade union or other representative body of the workmen] be liable to modification until the expiry of six months from the date on which the standing orders or the last modifications thereof came in to operation.
- 21[(2) Subject to the provisions of sub-section (1), an employer or workman 22[or a trade union or other representative body of the workmen] may apply to the Certifying Officer to have the standing orders modified, and such application shall be accompanied by five copies of 23[***] the modifications proposed to be made, and where such
- modifications are proposed to be made by agreement between the employer and the workmen 19[or a trade union or other representative body of the workmen], a certified copy of that agreement shall be filed along with the application.]
- (3) The foregoing provisions of this Act shall apply in respect of an application under sub-section (2) as they apply to the certification of the first standing orders.
- 24[(4) Nothing contained in sub-section (2) shall apply to an industrial establishment in respect of which the appropriate Government is the Government of the State of Gujarat or the Government of the State of Maharashtra.]
- 25[10-A. Payment of subsistence allowance.--(1) Where any workman is suspended by the employer pending investigation or inquiry into complaints or charges of misconduct against him, the employer shall pay to such workman subsistence allowance-
- (a) at the rate of fifty per cent of the wages which workman immediately preceding the date of such suspension, for the first suspension; and was entitled to ninety days of 20 Ins. by Act No.18 of 1982 (w.e.f.17-5-1982). 21 Subs, by Act No. 36 of 1956,

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S. 32, for the original sub-section (w.e.f. 17-9-956). 22 Ins. by Act No.18 of 1982 (w.e.f.17-5-1982). 23 Omitted by Act No. 39 of 963. 24 Added by ibid.

25 Ins. by Act No. 18 of 1982 (w.e.f. 17-5-1982).

(b) at the rate of seventy-five per cent of such wages for the remaining period of suspension if the delay in the completion of disciplinary proceedings against such workman is not directly attributable to the conduct of such workman.

(2) If any dispute arises regarding the subsistence allowance payable to a workman under sub-section (1), the workman or the employer concerned may refer the dispute to the Labour Court, constituted under the Industrial Disputes Act, 1947 (14 of 1947), within the local limits of whose jurisdiction the industrial establishment wherein such workman is employed is situate and the Labour Court to which the dispute is so referred shall, after giving the parties an opportunity of being heard, decide the dispute and such decision shall be final and binding on the parties.

(3) Not with standing anything contained in the foregoing provisions of this section, where provisions relating to payment of subsistence allowance under any other law for the time being in force in any State are more beneficial than the provisions of this section, the provisions of such other law shall be applicable to the payment of subsistence allowance in that State.]

11. Certifying Officers and appellate authorities to have powers of Civil Court.-(1) Every Certifying Officer and appellate authority shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall be deemed to be a Civil Court within the meaning of [Sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974)]²⁶

27[(2) Clerical or arithmetical mistakes in any order passed by a Certifying officer or appellate authority, or errors arising therein from any accidental slip or omission may, at any time, be corrected by that Officer or authority or the successor in office of such officer or authority, as the case may be.]

12. Oral evidence in contradiction of standing orders not admissible.--No oral evidence having the effect of adding to or otherwise varying or contradicting standing orders finally certified under this Act shall be admitted in any Court.

28[12-A. Temporary application of model standing orders.--(1) Notwithstanding anything contained in Sections to12, for the period commencing on the date on which this Act becomes applicable to an industrial establishment and ending with the date on which the standing orders as finally certified under this Act come into operation under Section 7 in that establishment, the prescribed model standing orders shall be deemed to be adopted in that establishment, and the provisions of Section 9, sub-section (2) of Section 13 and Section 13-A shall apply to such model standing orders as they apply to the standing orders so certified.

²⁶ Added by ibid.

27 The original S. 11 renumbered as sub-section (1) and sub-section (2) added by Act No. 39 of 1963

28 Added by Act No. 39 of 1963.

(2) Nothing contained in sub-section (1) shall apply to an industrial establishment in respect of which the appropriate Government is the Government of the State of Gujarat or the Government of the State of Maharashtra.]

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Section 12-A.--Where there are two categories of workmen, one in respect of the daily rated workmen and the other in respect of the monthly rated workmen, if there are certified standing orders in respect of the daily rated workers only, the prescribed model standing orders should be deemed to have been adopted for those who are employed on the monthly basis until such categories have their own certified standing orders,

13. Penalties and procedure.--(1) An employer who fails to submit draft standing orders as required by Section 3 or who modifies his standing orders otherwise than in accordance with Section 10, shall be punishable with fine which may extend to five thousand rupees, and in the case of a continuing offence with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.

(2) An employer who does any act in contravention of the standing orders finally certified under this Act for his industrial establishment shall be punishable with fine which may extend to one hundred rupees, and in the case of a continuing offence with a further fine which may extend to twenty-five rupees for every day after the first during which the offence continues.

(3) No prosecution for an offence punishable under this section shall be instituted except with the previous sanction of the appropriate Government.

(4) No Court inferior to that of 29[a Metropolitan or Judicial Magistrate of the second class] shall try any offence under this section.

30[13-A. Interpretation, etc., of standing orders.--If any question arises as to the application or interpretation of a standing order certified under this Act, any employer or workman [or a trade union or other representative body of the workmen]31 may refer the question to any one of the Labour Courts constituted under the Industrial Disputes Act, 1947, and specified for the disposal of such proceeding by the appropriate Government by notification in the Official Gazette, and the Labour Court to which the question is so referred shall, after giving the parties an opportunity of being heard, decide the question and such decision shall be final and binding on the parties.

13-B. Act not to apply to certain industrial establishments.--Nothing in this Act shall apply to an industrial establishment in so far as the workmen employed therein are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules; Civil Service Regulations, Civilians in Defense Service

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(Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations than may be notified in this behalf by the appropriate Government in the Official Gazette, apply.]

29 Sub., by Act no. 18 of 1982 (w.e.f. 17-5-1982)

30 Ins. by Act No. 36 of 1956, S. 32 (w.e.f. 10.3.1957). 31 Ins. by Act No. 18 of 1982 (w.e.f. 17-5-1982).

14. Power of exempt.--The appropriate Government may by notification in the Official Gazette exempt, conditionally or unconditionally any industrial establishment or class of industrial establishments from all or any of the provisions of this Act.

32[14-A. Delegation of powers.--The appropriate Government may by notification in the Official Gazette, direct that any power exercisable by it under this Act or any rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also-

(a) Where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government, or by such officer or authority subordinate to the State Government, as may be specified in the notification;

(b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government, as may be specified in the notification.]

15. Power to make rules.--(1) The appropriate Government may after previous publication, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may-

- (a) prescribe additional matters to be included in the Schedule, and the procedure to be followed in modifying standing orders certified under this Act in accordance with any such addition;
- (b) set out model standing orders for the purposes of this Act;
- (c) prescribe the procedure of Certifying Officers and appellate authorities;
- (d) Prescribe the fee which may be charged for copies of standing orders entered in the register of standing orders;
- (e) provide for any other matter which is to be or may be prescribed;

Provided that before any rules are made under clause (a) representatives of both employers and workmen shall be consulted by the appropriate Government.

33[(3) Every rule made by the Central Government under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or 34 [in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid] both Houses agree in

making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so however that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule.]

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THE SCHEDULE

32 Ins. by Act No. 16 of 1961, S. 5, and sub. by Act No. 39 of 1963.

33 Ins. by S. 6 of Act No. 16 of 1961.

34 Sub. By Act No. 18 of 1982 (w.e.f. 17-5-1982).

[See Sections 2 (g) and 3(2)]

MATTERS TO BE PROVIDED IN STANDING ORDERS UNDER THIS ACT

1. Classification of workmen, e.g., whether permanent, temporary, apprentices, probationers, or badlis.
2. Manner of intimating to workmen periods and hours of work, holidays, pay-days and wage rates.
3. Shift working.
4. Attendance and late coming.
5. Conditions of, procedure in applying for, and the authority which may grant leave and holidays.
6. Requirement to enter premises by certain gates, an liability to search.
7. Closing and reporting of sections of the industrial establishment, temporary stoppages of work and the rights and liabilities of the employer and workmen arising there from.
8. Termination of employment, and the notice thereof to be given by employer and workmen.
9. Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct.
10. Means of redress for workmen against unfair treatment or wrongful exactions by the employer or his agents or servants.
11. Any other matter which may be prescribed.

5.4 TRADE UNIONS ACT 1926

An Act to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions

Whereas it is expedient to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions;

It is hereby enacted as follows:

CHAPTER I - PRELIMINARY

NOTES

1. Short title, extent and commencement.-

1. This Act may be called the Trade Unions Act, 1926.
2. It extends to the whole of India.
3. It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

1. Definitions.- In this Act 'the appropriate Government' means, in relation to Trade Unions whose objects are not confined to one State, the Central Government, and in relation to other Trade Unions, the State Government, and, unless there is anything repugnant in the subject or context, -

"executive" means the body, by whatever name called, to which the management of the affairs of a Trade Union is entrusted;

"office-bearer", in the case of a Trade Union, includes any member of the executive thereof, but does not include an auditor;

"prescribed" means prescribed by regulations made under this Act;

"registered office" means that office of a Trade Union which is registered under this Act as the head office thereof;

"registered Trade Union" means a Trade Union registered under this Act;

"Registrar" means -

▷ a Registrar of Trade Unions appointed by the appropriate Government under section 3, and includes any Additional or Deputy Registrar of Trade Unions; and

▷ in relation to any Trade Union, the Registrar appointed for the State in which the head or registered office, as the case may be, of the Trade Union is situated ;

"trade dispute" means any dispute between employers and workmen or between workmen and workmen, or between employers and employers which is connected with the employment or non-employment, or the terms of employment or the conditions of labour, of any person, and "workmen" means all persons employed in trade or industry whether or not in the employment of the employer with whom the trade dispute arises; and

"Trade Union" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade

Unions:

Provided that this Act shall not affect -

- any agreement between partners as to their own business;
- any agreement between an employer and those employed by him as to such employment; or
- any agreement in consideration of the sale of the good-will of a business or of instruction in any profession, trade or handicraft.

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CHAPTER II - REGISTRATION OF TRADE UNIONS

3. Appointment of Registrars.-

1. The appropriate Government shall appoint a person to be the Registrar of Trade Unions for each State.
2. The appropriate Government may appoint as many Additional and Deputy Registrars of Trade Unions as it thinks fit for the purpose of exercising and discharging, under the superintendence and direction of the Registrar, such powers and functions of the Registrar under this Act as it may, by order, specify and define the local limits within which any such Additional or Deputy Registrar shall exercise and discharge the powers and functions so specified.
3. Subject to the provisions of any order under sub-section (2), where an Additional or Deputy Registrar exercises and discharges the powers and functions of a Registrar in an area within which the registered office of a Trade Union is situated, the Additional or Deputy Registrar shall be deemed to be the Registrar in relation to the Trade Union for the purposes of this Act.

4. Mode of registration.

1. Any seven or more members of a Trade Union may, by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of this Act with respect to registration, apply for registration of the Trade Union under this Act.
2. Where an application has been made under sub-section (1) for the registration of a Trade Union, such application shall not be deemed to have become invalid merely by reason of the fact that, at any time after the date of the application, but before the registration of the Trade Union, some of the applicants, but not exceeding half of the total number of persons who made the application, have ceased to be members of the Trade Union or have given notice in writing to the Registrar dissociating themselves from the application.

5. Application for registration.-

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1. Every application for registration of a Trade Union shall be made to the Registrar, and shall be accompanied by a copy of the rules of the Trade Union and a statement of the following particulars, namely: -

the names, occupations and addresses of the members making the application;

the name of the Trade Union and the address of its head office; and

the titles, names, ages, addresses and occupations of the office-bearers of the Trade Union.

2. Where a Trade Union has been in existence for more than one year before the making of an application for its registration, there shall be delivered to the Registrar, together with the application, a general statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars as may be prescribed.

6. Provisions to be contained in the rules of a Trade Union.- A Trade Union shall not be entitled to registration under this Act, unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely: -

the name of the Trade Union;

the whole of the objects for which the Trade Union has been established;

the whole of the purposes for which the general funds of the Trade Union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act;

the maintenance of a list of the members of the Trade Union and adequate facilities for the inspection thereof by the office-bearers and members of the Trade Union;

the admission of ordinary members who shall be persons actually engaged or employed in an industry with which the Trade Union is connected, and also the admission of the number of honorary or temporary members as office-bearers required under section 22 to form the executive of the Trade Union;

the payment of a subscription by members of the Trade Union which shall be not less than twenty-five naye paise per month per member;

the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;

the manner in which the rules shall be amended, varied or rescinded;

the manner in which the members of the executive and the other office-bearers of the Trade Union shall be appointed and removed;

the safe custody of the funds of the Trade Union, an annual audit, in such

manner as may be prescribed, of the accounts thereof, and adequate facilities for the inspection of the account books by the office-bearers and members of the Trade Union; and
the manner in which the Trade Union may be dissolved.

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7. Power to call for further particulars and to require alteration of name.-

1. The Registrar may call for further information for the purpose of satisfying himself that any application complies with the provisions of section 5, or that the Trade Union is entitled to registration under section 6, and may refuse to register the Trade Union until such information is supplied.
2. If the name under which a Trade Union is proposed to be registered is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall require the persons applying for registration to alter the name of the Trade Union stated in the application, and shall refuse to register the Union until such alteration has been made.

8. Registration.-The Registrar, on being satisfied that the Trade Union has complied with all the requirements of this Act in regard to registration, shall register the Trade Union by entering in a register, to be maintained in such form as may be prescribed, the particulars relating to the Trade Union contained in the statement accompanying the application for registration.

9. Certificate of registration.- The Registrar, on registering a Trade Union under section 8, shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the Trade Union has been duly registered under this Act.

10. Cancellation of registration.- A certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar -

on the application of the Trade Union to be verified in such manner as may be prescribed, or

if the Registrar is satisfied that the certificate has been obtained by fraud or mistake, or that the Trade Union has ceased to exist or has wilfully and after notice from the Registrar contravened any provision of this Act or allowed any rule to continue in force which is inconsistent with any such provision, or has rescinded any rule providing for any matter provision for which is required by section 6:

Provided that not less than two months' previous notice in writing specifying the ground on which it is proposed to withdraw or cancel the certificate shall be given by the Registrar to the Trade Union before the certificate is withdrawn or cancelled otherwise than on the application of the Trade Union.

11. Appeal

1. Any person aggrieved by any refusal of the Registrar to register a Trade Union or by the withdrawal or cancellation of a certificate of registration may, within such period as may be prescribed, appeal, -
where the head office of the Trade Union is situated within the limits of a Presidency-town, to the High Court, or
where the head office is situated in any other area, to such Court, not inferior to the Court of an additional or assistant Judge of a principal Civil Court of original jurisdiction, as the appropriate Government may appoint in this behalf for that area.
2. The appellate Court may dismiss the appeal, or pass an order directing the Registrar to register the Union and to issue a certificate of registration under the provisions of section 9 or setting aside the order for withdrawal or cancellation of the certificate, as the case may be, and the Registrar shall comply with such order.
3. For the purpose of an appeal under sub-section (1) an appellate Court shall, so far as may be, follow the same procedure and have the same powers as it follows and has when trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), and may direct by whom the whole or any part of the costs of the appeal shall be paid, and such costs shall be recovered as if they had been awarded in a suit under the said Code.
4. In the event of the dismissal of an appeal by any Court appointed under clause (b) of sub-section (1), the person aggrieved shall have a right of appeal to the High Court, and the High Court shall, for the purpose of such appeal, have all the powers of an appellate Court under sub-sections (2) and (3), and the provisions of those sub-sections shall apply accordingly.

12. Registered office.- All communications and notices to a registered Trade Union may be addressed to its registered office. Notice of any change in the address of the head office shall be given within fourteen days of such change to the Registrar in writing, and the changed address shall be recorded in the register referred to in section 8.

13. Incorporation of registered Trade Unions.- Every registered Trade Union shall be a body corporate by the name under which it is registered, and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

14. Certain Acts not to apply to registered Trade Unions.- The following Acts, namely: -

The Societies Registration Act, 1860 (21 of 1860),

The Co-operative Societies Act, 1912 (2 of 1912),

The Companies Act, 1956 (1 of 1956);

shall not apply to any registered Trade Union, and the registration of any such Trade Union under any such Act shall be void.

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CHAPTER III - RIGHTS AND LIABILITIES OF REGISTERED TRADE UNIONS

15. Objects on which general funds may be spent.- The general funds of a registered Trade Union shall not be spent on any other objects than the following, namely: -

- the payment of salaries, allowances and expenses to office-bearers of the Trade Union;
- the payment of expenses for the administration of the Trade Union, including audit of the accounts of the general funds of the Trade Union;
- the prosecution or defence of any legal proceeding to which the Trade Union or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the Trade Union as such or any rights arising out of the relations of any member with his employer or with a person whom the member employs;
- the conduct of trade disputes on behalf of the Trade Union or any member thereof;
- the compensation of members for loss arising out of trade disputes;
- allowances to members or their dependants on account of death, old age, sickness, accidents or unemployment of such members;
- the issue of, or the undertaking of liability under, policies of assurance on the lives of members, or under policies insuring members against sickness, accident or unemployment;
- the provision of educational, social or religious benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members) or for the dependants of members;
- the upkeep of a periodical published mainly for the purpose of discussing questions affecting employers or workmen as such;
- the payment, in furtherance of any of the objects on which the general funds of the Trade Union may be spent, of contributions to any cause intended to benefit workmen in general, provided that the expenditure in respect of such contributions in any financial year shall not at any time during that year be in excess of one-fourth of the combined total of the gross income which has up to that time accrued to the general funds of the Trade Union during that year and of the balance at the credit of those funds at the commencement of that year; and

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subject to any conditions contained in the notification, any other object notified by the appropriate Government in the official Gazette.

16. Constitution of a separate fund for political purposes.-

1. A registered Trade Union may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of any of the objects specified in sub-section (2).

2. The objects referred to in sub-section (1) are: -

the payment of any expenses incurred, either directly or indirectly, by a candidate or prospective candidate for election as a member of any legislative body constituted under the Constitution or of any local authority, before, during, or after the election in connection with his candidature or election; or the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate; or

the maintenance of any person who is a member of any legislative body constituted under the Constitution or of any local authority; or

the registration of electors or the election of a candidate for any legislative body constituted under the Constitution or for any local authority; or

the holding of political meetings of any kind, or the distribution of political literature or political documents of any kind.

(2A) In its application to the State of Jammu and Kashmir, references in sub-section (2) to any legislative body constituted under the Constitution shall be construed as including references to the Legislature of that State.

3. No member shall be compelled to contribute to the fund constituted under sub-section (1); and a member who does not contribute to the said fund shall not be excluded from any benefits of the Trade Union, or placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the Trade Union (except in relation to the control or management of the said fund) by reason of his not contributing to the said fund; and contribution to the said fund shall not be made a condition for admission to the Trade Union.

17. Criminal conspiracy in trade disputes.- No office-bearer or member of a registered Trade Union shall be liable to punishment under sub-section (2) of section 120B Indian Penal Code (45 of 1860), in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union as is specified in section 15, unless the agreement is an agreement to commit an offence.

18. Immunity from civil suit in certain cases.-

1. No suit or other legal proceeding shall be maintainable in any Civil Court against any registered Trade Union or any office-bearer, or member thereof in respect

of any act done in contemplation or furtherance of a trade dispute to which a member of the Trade Union is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

2. A registered Trade Union shall not be liable in any suit or other legal proceeding in any Civil Court in respect of any tortious act done in contemplation or furtherance of a trade dispute by an agent of the Trade Union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the Trade Union.

19. Enforceability of agreements.- Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered Trade Union shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade:

Provided that nothing in this section shall enable any Civil Court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any members of a Trade Union shall or shall not sell their goods, transact business, work, employ or be employed.

20. Right to inspect books of Trade Union.- The account books of a registered Trade Union and the list of members thereof shall be open to inspection by an office-bearer or member of the Trade Union at such times as may be provided for in the rules of the Trade Union.

21. Rights of minors to membership of Trade Unions.- Any person who has attained the age of fifteen years may be a member of a registered Trade Union subject to any rules of the Trade Union to the contrary, and may, subject as aforesaid, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules.

21A. Disqualifications of office-bearers of Trade Unions.-

1. A person shall be disqualified for being chosen as, and for being, a member of the executive or any other office-bearer of a registered Trade Union if -
 - he has not attained the age of eighteen years,
 - he has been convicted by a Court in India of any offence involving moral turpitude and sentenced to imprisonment, unless a period of five years has elapsed since his release.
2. Any member of the executive or other office-bearer of a registered Trade Union who, before the commencement of the Indian Trade Unions (Amendment) Act, 1964 (38 of 1964), has been convicted of any offence involving moral turpitude and sentenced to imprisonment, shall on the date of such commencement cease

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to be such member or office-bearer unless a period of five years has elapsed since his release before that date.

- 3: In its application to the State of Jammu and Kashmir, reference in sub-section (2) to the commencement of the Indian Trade Unions (Amendment) Act, 1964 (38 of 1964), shall be construed as reference to the commencement of this Act in the said State.

22. Proportion of office-bearers to be connected with the industry.-

Not less than one-half of the total number of the office-bearers of every registered Trade Union shall be persons actually engaged or employed in an industry with which the Trade Union is connected:

Provided that the appropriate Government may, by special or general order, declare that the provisions of this section shall not apply to any Trade Union or class of Trade Unions specified in the order.

23. Change of name.- Any registered Trade Union may, with the consent of not less than two-thirds of the total number of its members and subject to the provisions of section 25, change its name.

24. Amalgamation of Trade Unions.- Any two or more registered Trade Unions may become amalgamated together as one Trade Union with or without dissolution or division of the funds of such Trade Unions or either or any of them, provided that the votes of at least one-half of the members of each or every such trade Union entitled to vote are recorded, and that at least sixty per cent of the votes recorded are in favour of the proposal.

25. Notice of change of name or amalgamation.-

1. Notice in writing of every change of name of every amalgamation, signed, in the case of a change of name, by the Secretary and by seven members of the Trade Union changing its name, and, in the case of an amalgamation, by the Secretary and by seven members of each and every Trade Union which is a party thereto, shall be sent to the Registrar, and where the head office of the amalgamated Trade Union is situated in a different State, to the Registrar of such State.
2. If the proposed name is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall refuse to register the change of name.
3. Save as provided in sub-section (2), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name in the register referred to in section 8, and the change of name shall have effect from the date of such registration.

4. The Registrar of the State in which the head office of the amalgamated Trade Union is situated shall, if he is satisfied that the provisions of this Act in respect of amalgamation have been complied with and that the Trade Union formed thereby is entitled to registration under section 6, register the Trade Union in the manner provided in section 8, and the amalgamation shall have effect from the date of such registration.

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26. Effects of change of name and of amalgamation.-

1. The change in the name of a registered Trade Union shall not affect any rights or obligations of the Trade Union or render defective any legal proceeding by or against the Trade Union, and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.
2. An amalgamation of two or more registered Trade Unions shall not prejudice any right of any of such Trade Unions or any right of a creditor of any of them.

27. Dissolution.-

1. When a registered Trade Union is dissolved, notice of the dissolution signed by seven members and by the Secretary of the Trade Union shall, within fourteen days of the dissolution, be sent to the Registrar, and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the Trade Union, and the dissolution shall have effect from the date of such registration.
2. Where the dissolution of a registered Trade Union has been registered and the rules of the Trade Union do not provide for the distribution of funds of the Trade Union on dissolution, the Registrar shall divide the funds amongst the members in such manner as may be prescribed.

28. Returns.-

1. There shall be sent annually to the Registrar, on or before such date as may be prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of every registered Trade Union during the year ending on the 31st day of December next preceding such prescribed date, and of the assets and liabilities of the Trade Union existing on such 31st day of December. The statement shall be prepared in such form and shall comprise such particulars as may be prescribed.
2. Together with the general statement there shall be sent to the Registrar a statement showing all changes of office-bearers made by the Trade Union during the year to which the general statement refers, together also with a copy of the rules of the Trade Union corrected up to the date of the despatch thereof to the Registrar.

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3. A copy of every alteration made in the rules of a registered Trade Union shall be sent to the Registrar within fifteen days of the making of the alteration.
4. For the purpose of examining the documents referred to in sub-sections (1), (2) and (3), the Registrar, or any officer authorised by him, by general or special order, may at all reasonable times inspect the certificate of registration, account books, registers, and other documents, relating to a Trade Union, at its registered office or may require their production at such place as he may specify in this behalf, but no such place shall be at a distance of more than ten miles from the registered office of a Trade Union.

CHAPTER IV - REGULATIONS

29. Power to make regulations.-

1. The appropriate Government may make regulations for the purpose of carrying into effect the provisions of this Act.
2. In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely: -
 - the manner in which Trade Unions and the rules of Trade Unions shall be registered and the fees payable on registration;
 - the transfer of registration in the case of any registered Trade Union which has changed its head office from one State to another;
 - the manner in which, and the qualifications of persons by whom, the accounts of registered Trade Unions or of any class of such Unions shall be audited;
 - the conditions subject to which inspection of documents kept by Registrars shall be allowed and the fees which shall be chargeable in respect of such inspections; and
 - any matter which is to be or may be prescribed.

30. Publication of regulations.-

1. The power to make regulations conferred by section 29 is subject to the condition of the regulations being made after previous publication.
2. The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 (10 of 1897), as that after which a draft of regulations proposed to be made will be taken into consideration shall not be less than three months from the date on which the draft of the proposed regulations was published for general information.
3. Regulations so made shall be published in the Official Gazette, and on such publication shall have effect as if enacted in this Act.

CHAPTER V - PENALTIES AND PROCEDURE

32. Supplying false information regarding Trade Unions.- Any person who, with intent to deceive, gives to any member of a registered Trade Union or to any person intending or applying to become a member of such Trade Union any document purporting to be a copy of the rules of the Trade Union or of any alterations to the same which he knows, or has reason to believe, is not a correct copy of such rules or alterations as are for the time being in force, or any person who, with the like intent, gives a copy of any rules of an unregistered Trade Union to any person on the pretence that such rules are the rules of a registered Trade Union, shall be punishable with fine which may extend to two hundred rupees.

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31. Failure to submit returns.-

1. If default is made on the part of any registered Trade Union in giving any notice or sending any statement or other document as required by or under any provision of this Act, every office-bearer or other person bound by the rules of the Trade Union to give or send the same, or, if there is no such office-bearer or person every member of the executive of the Trade Union, shall be punishable, with fine which may extend to five rupees and, in the case of a continuing default, with an additional fine which may extend to five rupees for each week after the first during which the default continues: Provided that the aggregate fine shall not exceed fifty rupees.
2. Any person who wilfully makes, or causes to be made, any false entry in, or any omission from, the general statement required by section 28, or in or from any copy of rules or of alterations of rules sent to the Registrar under that section, shall be punishable with fine which may extend to five hundred rupees.

32. Supplying false information regarding Trade Unions.- Any person who, with intent to deceive, gives to any member of a registered Trade Union or to any person intending or applying to become a member of such Trade Union any document purporting to be a copy of the rules of the Trade Union or of any alterations to the same which he knows, or has reason to believe, is not a correct copy of such rules or alterations as are for the time being in force, or any person who, with the like intent, gives a copy of any rules of an unregistered Trade Union to any person on the pretence that such rules are the rules of a registered Trade Union, shall be punishable with fine which may extend to two hundred rupees.

33. Cognizance of offences.-

1. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.
2. No Court shall take cognizance of any offence under this Act, unless complaint thereof has been made by, or with the previous sanction of, the Registrar or, in the case of an offence under section 32, by the person to whom the copy was

given, within six months of the date on which the offence is alleged to have been committed.

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5.5 CONTRACT LABOR ACT

THE CONTRACT LABOUR (REGULATION AND ABOLITION) ACT, 1970

ACT NO. 37
OF 1970¹

[5th September, 1970.]

An Act to regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.

Be it enacted by Parliament in the Twenty-first Year of the Republic of India as follows: -

CHAPTER I PRELIMINARY

1. Short title, extent, commencement and application. - (1) This Act may be called the Contract Labour (Regulation and Abolition) Act, 1970.
2. It extends to the whole of India.
3. It shall come into force on such date 1* as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act. *
4. It applies-
 - (a) To every establishment in which twenty or more workmen are employed or were employed on any day of the preceding twelve months as contract labour;
 - (b) to every contractor who employees or who employed on any day of the preceding twelve months twenty or more workmen:

Provided that the appropriate Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment or contractor employing such number of workmen less than twenty as may be specified in the notification.

5. (a) It shall not apply to establishments in which work only of an intermittent or casual nature is performed.
- (b) If a question arises whether work performed in an establishment is of an intermittent or casual nature, the appropriate Government shall decide

¹ Received assent of the President on 5.9.1970; Published in Gazette of India on

that question after consultation with the Central Board or, as the case may be, a State Board, and its decision shall be final.

Explanation.— For the purpose of this sub-section, work performed in an establishment shall not be deemed to be of an intermittent nature--

- i. if it was performed for more than one hundred and twenty days in the preceding twelve months, or
- ii. if it is of a seasonal character and is performed for more than sixty days in a year.

2. Definitions.- (1) In this Act, unless the context otherwise requires,--

(a) "appropriate Government" means,--

- i. in relation to an establishment in respect of which the appropriate Government under the Industrial Disputes Act, 1947 (14 of 1947), is the Central Government, the Central Government;
- ii. in relation to any other establishment, the Government of the State in which that other establishment is situated;]

(b) a workman shall be deemed to be employed as "contract labour" in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer;

(c) "contractor", in relation to an establishment, means a person who undertakes to produce a given result for the establishment, other than a mere supply of goods of articles of manufacture to such establishment, through contract labour or who supplies contract labour for any work of the establishment and includes a sub-contractor;

(d) "controlled industry" means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest;

(e) "establishment" means--

- i. any office or department of the Government or a local authority, or
- ii. any place where any industry, trade, business, manufacture or occupation is carried on;

2. Subs. by Act 14 of 1986, s. 2 (w.e.f. 28.1.1986).

(f) "prescribed" means prescribed by rules made under this Act; (g) "principal employer" means--

- i. in relation to any office or department of the Government or a local authority, the head of that office or department or such other officer as the Government or the local authority, as the case may be, may specify in this behalf,

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- ii. in a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory under the Factories Act, 1948 (63 of 1948) the person so named,
- iii. in a mine, the owner or agent of the mine and where a person has been named as the manager of the mine, the person so named,
- iv. in any other establishment, any person responsible for the supervision and control of the establishment.

Explanation.--For the purpose of sub-clause (iii) of this clause, the expressions "mine", "owner" and "agent" shall have the meanings respectively assigned to them in clause (j), clause (l) and clause (c) of sub-section (1) of section 2 of the Mines Act, 1952 (35 of 1952);

- (g) "wages" shall have the meaning assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936 (4 of 1936); (i) "workman" means any person employed in or in connection with the work of any establishment to do any skilled, semiskilled or un-skilled manual, supervisory, or clerical work for hire or reward, whether the terms of employment be express or implied, but does not include any such person-- (A) who is employed mainly in a managerial or administrative capacity; or (B) who, being employed in a supervisory capacity draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature; or (C) who is an out-worker, that is to say, a person to whom any articles or materials are given out by or on behalf of the Principal employer to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of the principal employer and the process is to be carried out either in the home of the out-worker or in some other premises, not being premises under the control and management of the principal employer.
2. Any reference in this Act to a law, which is not in force in the State of Jammu and Kashmir, shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

CHAPTER II

THE ADVISORY BOARDS

3. Central Advisory Board.- (1) The Central Government shall, as soon as may be, constitute a board to be called the Central Advisory Contract Labour Board (hereinafter referred to as the Central Board) to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it and to carry out other functions assigned to it under this Act.

(2) The Central Board shall consist of--

- (a) a Chairman to be appointed by the Central Government;
- (b) the Chief Labour Commissioner (Central), ex-officio;
- (c) such number of members, not exceeding seventeen but not less than eleven, as the Central Government may nominate to represent that Government, the Railways, the coal industry, the mining industry, the contractors, the workmen and any other interests which, the opinion of the Central Government, ought to be represented on the Central Board.

(3) The number of persons to be appointed as members from each of the categories specified in sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Central Board shall be such as may be prescribed:

Provided that the number of members nominated to represent the workmen shall not be less than the number of members nominated to represent the principal employers and the contractors.

4. State Advisory Board.- (1) The State Government may constitute a board to be called the State Advisory Contract Labour Board (hereinafter referred to as the State Board) to advise the State Government on such matters arising out of the administration of this Act as may be referred to it and to carry out other functions assigned to it under this Act.

(2) The State Board shall consist of--

- (a) a Chairman to be appointed by the State Government;
- (b) the Labour Commissioner, ex-officio, or in his absence any other officer nominated by the State Government in that behalf;
- (c) such number of members, not exceeding eleven but not less than nine, as the State Government may nominate to represent that Government, the industry, the contractors, the workmen and any other interests which, in the opinion of the State Government, ought to be represented on the State Board.

(3) The number of persons to be appointed as members from each of the categories specified in sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the State Board shall be such as may be prescribed:

Provided that the number of members nominated to represent the workmen shall not be less than the number of members nominated to represent the principal employers and the contractors.

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5. Power to constitute committees.- (1) The Central Board or the State Board, as the case may be, may constitute such committees and for such purpose or purposes as it may think fit.

(2) The committee constituted under sub-section (1) shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(3) The members of a committee shall be paid such fees and allowances for attending its meetings as may be prescribed:

Provided that no fees shall, be payable to a member who is an officer of Government or of any corporation established by any law for the time being in force.

CHAPTER III

REGISTRATION OF ESTABLISHMENTS EMPLOYING CONTRACT LABOUR

6. Appointment of registering officers.- The appropriate Government may, by an order notified in the Official Gazette--

(a) appoint such persons, being Gazetted Officers of Government, as it thinks fit to be registering officers for the purposes of this Chapter; and

(b) define the limits, within which a registering officer shall exercise the powers conferred on him by or under this Act.

7. Registration of certain establishments.- (1) Every principal employer of an establishment to which this Act applies shall, within such period as the appropriate Government may, by notification in the Official Gazette, fix in this behalf with respect to establishments generally or with respect to any class of them, make an application to the registering officer in the prescribed manner for registration of the establishment:

Provided that the registering officer may entertain any such application for registration after expiry of the period fixed in this behalf, if the registering officer is satisfied that the applicant was prevented by sufficient cause from making the application in time.

(2) If the application for registration is complete in all respects, the registering officer shall register the establishment and issue to the principal employer of the establishment a certificate of registration containing such particulars as may be prescribed.

8. Revocation of registration in certain cases.- If the registering officer is satisfied, either on a reference made to him in this behalf or otherwise, that the registration of any establishment has been obtained by misrepresentation or suppression of any material fact, or that for any other reason the registration has become useless or ineffective and, therefore, requires to be revoked, the registering officer may, after giving an opportunity to the principal employer of the establishment

to be heard and with the previous approval of the appropriate Government, revoke the registration.

9. Effect of non-registration.- No principal employer of an establishment, to which this Act applies, shall--

- (a) in the case of an establishment required to be registered under section 7, but which has not been registered within the time fixed for the purpose under that section,
- (b) in the case of an establishment the registration in respect of which has been revoked under section 8, employ contract labour in the establishment after the expiry of the period referred to in clause (a) or after the revocation of registration referred to in clause (b), as the case may be.

10. Prohibition of employment of contract labour.- (1) Notwithstanding anything contained in this Act, the appropriate Government may, after consultation with the Central Board or, as the case may be, a State Board, prohibit, by notification in the Official Gazette, employment of contract labour in any process, operation or other work in any establishment.

2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate Government shall have regard to the conditions of work and benefits provided for the contract labour in that establishment and other relevant factors, such as--

- (a) whether the process, operation or other work is incidental to, or necessary for the industry, trade, business, manufacture or occupation that is carried on in the establishment;
- (b) whether it is of perennial nature, that is to say, it is of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment;
- (c) whether it is done ordinarily through regular workmen in that establishment or an establishment similar thereto;
- (d) whether it is sufficient to employ considerable number of whole-time workmen.

Explanation.-- If a question arises whether any process or operation or other work is of perennial nature, the decision of the appropriate Government thereon shall be final.

CHAPTER IV LICENSING OF CONTRACTORS

11. Appointment of licensing officers.-- The appropriate Government may, by an order notified in the Official Gazette,--

- (a) appoint such persons, being Gazetted Officers of Government, as it thinks fit to be licensing officers for the purposes of this Chapter; and

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- (b) define the limits, within which a licensing officer shall exercise the powers conferred on licensing officers by or under this Act.

1. Licensing of contractors.- (1) With effect from such date as the appropriate Government may, by notification in the Official Gazette, appoint, no contractor to whom this Act applies, shall undertake or execute any work through contract labour except under and in accordance with a licence issued in that behalf by the licensing officer.

2 Subject to the provisions of this Act, a licence under sub-section (1) may contain such conditions including, in particular, conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labour as the appropriate Government may deem fit to impose in accordance with the rules, if any, made under section 35 and shall be issued on payment of such fees and on the deposit of such sum, if any, as security for the due performance of the conditions as may be prescribed.

13. Grant of licences.--(1) Every application for the grant of a licence under sub-section (1) of section 12 shall be made in the prescribed form and shall contain the particulars regarding the location of the establishment, the nature of process, operation or work for which contract labour is to be employed and such other particulars as may be prescribed.

(2) The licensing officer may make such investigation in respect of the application received under sub-section (1) and in making any such investigation the licensing officer shall follow such procedure as may be prescribed.

(3) A licence granted under this Chapter shall be valid for the period specified therein and may be renewed from time to time for such period and on payment of such fees and on such conditions as may be prescribed.

14. Revocation, suspension and amendment of licences.- (1) If the licensing officer is satisfied, either on a reference made to him in this behalf or otherwise, that--

- (a) a licence granted under section 12 has been obtained by misrepresentation or suppression of any material fact, or
- (b) the holder of a licence has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or the rules made thereunder, then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the licensing officer may, after giving the holder of the licence an opportunity of showing cause, revoke or suspend the licence or forfeit the sum, if any, or any portion thereof deposited as security for the due performance of the conditions subject to which the licence has been granted.

(2) Subject to any rules that may be made in this behalf, the licensing officer may vary or amend a licence granted under section 12.

15. Appeal.- (1) Any person aggrieved by an order made under section 7, section 8, section 12 or section 14 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to an appellate officer who shall be a person nominated in this behalf by the appropriate Government:

Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate officer shall, after giving the appellant an opportunity of being heard dispose of the appeal as expeditiously as possible.

CHAPTER V

WELFARE AND HEALTH OF CONTRACT LABOUR

16. Canteens.- (1) The appropriate Government may make rules requiring that in every establishment--

- (a) to which this Act applies,
- (b) wherein work requiring employment of contract labour is likely to continue for such period as may be prescribed, and
- (c) wherein contract labour numbering one hundred or more is ordinarily employed by a contractor, one or more canteens shall be provided and maintained by the contractor for the use of such contract labour.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for--

- (a) the date by which the canteens shall be provided;
- (b) the number of canteens that shall be provided, and the standards in respect of construction, accommodation, furniture and other equipment of the canteens; and
- (c) the foodstuffs which may be served therein and the charges which may be made thereof.

17. Rest-rooms.- (1) In every place wherein contract labour is required to halt at night in connection with the work of an establishment--

- (a) to which this Act applies, and
- (b) in which work requiring employment of contract labour is likely to continue for such period as may be prescribed, there shall be provided and maintained by the contractor for the use of the contract labour such number of rest-rooms or such other suitable alternative accommodation within such time as may be prescribed.

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(2) The rest rooms or the alternative accommodation to be provided under sub-section (1) shall be sufficiently lighted and ventilated and shall be maintained in a clean and comfortable condition.

18. Other facilities.- It shall be the duty of every contractor employing contract labour in connection with the work of an establishment to which this Act applies, to provide and maintain--

- (a) a sufficient supply of wholesome drinking water for the contract labour at convenient places;
- (b) a sufficient number of latrines and urinals of the prescribed types so situated as to be convenient and accessible to the contract labour in the establishment; and
- (c) washing facilities.

19. First-aid facilities.- There shall be provided and maintained by the contractor so as to be readily accessible during all working hours a first-aid box equipped with the prescribed contents at every place where contract labour is employed by him.

20. Liability of principal employer in certain cases.- (1) If any amenity required to be provided under section 16, section 17, section 18 or section 19 for the benefit of the contract labour employed in an establishment is not provided by the contractor within the time prescribed thereof, such amenity shall be provided by the principal employer within such time as may be prescribed.

(2) All expenses incurred by the principal employer in providing the amenity may be recovered by the principal employer from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

21. Responsibility for payment of wages.-

1. A contractor shall be responsible for payment of wages to each worker employed by him as contract labour and such wages shall be paid before the expiry of such period as may be prescribed.
2. Every principal employer shall nominate a representative duly authorized by him to be present at the time of disbursement of wages by the contractor and it shall be the duty of such representative to certify the amounts paid as wages in such manner as may be prescribed.
3. It shall be the duty of the contractor to ensure the disbursement of wages in the presence of the authorized representative of the principal employer.
- (4) In case the contractor fails to make payment of wages within the prescribed period or makes short payment, then the principal employer shall be liable to make payment of wages in full or the unpaid balance due, as the case may be, to the contract labour employed by the contractor and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

CHAPTER VI PENALTIES AND PROCEDURE

22. Obstructions.-

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1. Whoever obstructs an inspector in the discharge of his duties under this Act or refuses or willfully neglects to afford the inspector any reasonable facility for making any inspection, examination, inquiry or investigation authorized by or under this Act in relation to an establishment to which, or a contractor to whom, this Act applies, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.
2. Whoever willfully refuses to produce on the demand of an inspector any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by an inspector acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

23. Contravention of provisions regarding employment of contract labour.- Whoever contravenes any provision of this Act or of any rules made thereunder prohibiting, restricting or regulating the employment of contract labour, or contravenes any condition of a licence granted under this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both, and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

24. Other offences.- If any person contravenes any of the provisions of this Act or of any rules made thereunder for which no other penalty is elsewhere provided, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

25. Offences by companies.- (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the

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offence is attributable to any neglect on the part of any director, manager, managing agent or any other officer of the company, such director, manager, managing agent or such other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-- For the purpose of this section--

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.

26. Cognizance of offences.- No court shall take cognizance of any offence under this Act except on a complaint made by, or with the previous sanction in writing of, the inspector and no court inferior to that of a Presidency Magistrate or a magistrate of the first class shall try any offence punishable under this Act.

27. Limitation of prosecutions.- No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of an inspector:

Provided that where the offence consists of disobeying a written order made by an inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

CHAPTER VII MISCELLANEOUS

28. Inspecting staff.-

1. The appropriate Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be inspectors for the purposes of this Act, and define the local limits within which they shall exercise their powers under this Act.
2. Subject to any rules made in this behalf, an inspector may, within the local limits for which he is appointed--
 - (a) enter, at all reasonable hours, with such assistance (if any), being persons in the service of the Government or any local or other public authority as he thinks fit, any premises or place where contract labour is employed, for the purpose of examining any register or record or notices required to be kept or exhibited by or under this Act or rules made thereunder, and require the production thereof for inspection;
 - (b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is a workman employed therein;
 - (c) require any person giving out work and any workman, to give any information, which is in his power to give with respect to the names

and addresses of the persons to, for and from whom the work is given out or received, and with respect to the payments to be made for the work;

- (d) seize or take copies of such register, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by the principal employer or contractor; and
- (e) exercise such other powers as may be prescribed.

3. Any person required to produce any document or thing or to give any information required by an inspector under sub-section (2) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code (45 of 1860).

4. The provisions of the Code of Criminal Procedure, 1898 (5 of 1898), shall, so far as may be, apply to any search or seizure under sub-section (2) as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code.

29. Registers and other records to be maintained.-

- 1. Every principal employer and every contractor shall maintain such registers and records giving such particulars of contract labour employed, the nature of work performed by the contract labour, the rates of wages paid to the contract labour and such other particulars in such form as may be prescribed.
- 2. Every principal employer and every contractor shall keep exhibited in such manner as may be prescribed within the premises of the establishment where the contract labour is employed, notices in the prescribed form containing particulars about the hours of work, nature of duty and such other information as may be prescribed.

30. Effect of laws and agreements inconsistent with this Act.-

- 1. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any law or in the terms of any agreement or contract of service, or in any standing orders applicable to the establishment whether made before or after the commencement of this Act: Provided that where under any such agreement, contract of service or standing orders the contract labour employed in the establishment are entitled to benefits in respect of any matter which are more favourable to them than those to which they would be entitled under this Act, the contract labour shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that they receive benefits in respect of other matters under this Act.
- 2. Nothing contained in this Act shall be construed as precluding any such contract labour from entering into an agreement with the principal employer

or the contractor, as the case may be, for granting them rights or privileges in respect of any matter, which are more favourable to them than those to which they would be entitled under this Act.

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31. Power to exempt in special cases.- The appropriate Government may, in the case of an emergency, direct, by notification in the Official Gazette, that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, all or any of the provisions of this Act or the rules made thereunder shall not apply to any establishment or class of establishments or any class of contractors.

32. Protection of action taken under this Act.-

1. No suit, prosecution or other legal proceedings shall lie against any registering officer, licensing officer or any other Government servant or against any member of the Central Board or the State Board, as the case may be, for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.
2. No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

33. Power to give directions.- The Central Government may give directions to the Government of any State as to the carrying into execution in the State of the provisions contained in this Act.

34. Power to remove difficulties.- If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.

35. Power to make rules.-

1. The appropriate Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.
2. In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--
 - (a) the number of persons to be appointed as members representing various interests on the Central Board and the State Board, the term of their office and other conditions of service, the procedure to be followed in the discharge of their functions and the manner of filling vacancies;
 - (b) the times and places of the meetings of any committee constituted under this Act, the procedure to be followed at such meetings including the quorum necessary for the transaction of business, and the fees and allowances that may be paid to the members of a committee;

- (c) the manner in which establishments may be registered under section 7, the levy of a fee thereof and the form of certificate of registration;
- (d) the form of application for the grant or renewal of a licence under section 13 and the particulars it may contain;
- (e) the manner in which an investigation is to be made in respect of an application for the grant of a licence and the matters to be taken into account in granting or refusing a licence;
- (f) the form of a licence which may be granted or renewed under section 12 and the conditions subject to which the licence may be granted or renewed, the fees to be levied for the grant or renewal of a licence and the deposit of any sum as security for the performance of such conditions;
- (g) the circumstances under which licences may be varied or amended under section 14;
- (h) the form and manner in which appeals may be filed under section 15 and the procedure to be followed by appellate officers in disposing of the appeals;
- (i) the time within which facilities required by this Act to be provided and maintained may be so provided by the contractor and in case of default on the part of the contractor, by the principal employer;
- (j) the number and types of canteens, rest rooms, latrines and urinals that should be provided and maintained;
- (k) the type of equipment that should be provided in the first-aid boxes;
- (l) the period within which wages payable to contract labour should be paid by the contractor under sub-section (1) section 21;
- (m) the form of registers and records to be maintained by principal employers and contractors;
- (n) the submission of returns, forms in which, and the authorities to which, such returns, may be submitted;
- (o) the collection of any information or statistics in relation to contract labour; and
- (p) (any other matter which has to be, or may be, prescribed under this Act.

(3) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case

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may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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5.6 SUMMARY

The Industrial Disputes Act 1947 extends to the whole of India and regulates Indian labour law so far as that concerns trade unions. It came into force April 1, 1947.

The Industrial Employment Act 1946 requires employers in industrial establishments formally to define conditions of employment under them. Whereas it is expedient to require employers in industrial establishments to define with sufficient precision the conditions of employment under them and to make the said conditions known to workmen employed by them.

The Trade Unions Act 1926 to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions. Whereas it is expedient to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions. The Contract Labor Act to regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.

5.7 REVIEW QUESTIONS

1. What is the Industrial Dispute Act 1947?
2. What is the Industrial Employment Act 1946?
3. What is the Trade Unions Act 1926?
4. What is the Contract Labor Act?

UNIT 6

Acts Applicable to
Hospitals

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ACTS APPLICABLE TO HOSPITALS

STRUCTURE

- 6.1 Learning Objective
- 6.2 Industrial Dispute Act 1947
- 6.3 Industrial Employment (Standing Orders) Act 1946
- 6.4 Trade Unions Act 1926
- 6.5 Contract Labor Act
- 6.6 Summary
- 6.7 Review Questions

6.1 LEARNING OBJECTIVE

After completion of this unit, you should be able to:

- Describe the Employee's Provident Funds Act 1952.
- Explain the Payment of Gratuity Act 1972.
- Explain the Payment of Wages Act 1936.
- Describe the Minimum Wages Act 1948.
- Explain the ESI Act 1948.
- Describe the Workmen Compensation Act 1923.

6.2 EMPLOYEE'S PROVIDENT FUNDS ACT 1952

An Act to provide for the institution of provident funds, pension fund and deposit-linked insurance fund for employees in factories and other establishments.

Be it enacted by Parliament as follows:-

1. Short title, extent and application.-

1. This Act may be called the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.
2. It extends to the whole of India except the State of Jammu and Kashmir.
3. Subject to the provisions contained in section 16, it applies -
 - (a) to every establishment which is a factory engaged in any industry specified in Schedule I and in which twenty or more persons are employed and

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- (b) to any other establishment employing twenty or more persons or class of such establishments which the Central Government may, by notification in the Official Gazette, specify, in this behalf:

Provided that the Central Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment employing such number of persons less than twenty as may be specified in the notification.

4. Notwithstanding anything contained in sub-section 3 of this section or sub-section 1 of section 16, where it appears to the Central Provident Fund Commissioner, whether on an application made to him in this behalf or otherwise, that the employer and the majority of employees in relation to any establishment have agreed that the provisions of this Act should be made applicable to the establishment, he may, by notification in the Official Gazette, apply the provisions of this Act to that establishment on and from the date of such agreement or from any subsequent date specified in such agreement.
5. An establishment to which this Act applies shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time falls below twenty.

2. Definitions. - In this Act, unless the context otherwise requires, -

(a) "Appropriate Government" means -

- i. In relation to an establishment belonging to, or under the control of, the Central Government or in relation to, an establishment connected with a railway company, a major port, a mine or an oil-field or a controlled industry or in relation to an establishment having departments or branches in more than one State, the Central Government; and
- ii. In relation to any other establishment, the State Government:

(aa) "authorised officer" means the Central Provident Fund Commissioner, Additional Central Provident Fund Commissioner, Deputy Provident Fund Commissioner, Regional Provident Fund Commissioner or such other officer as may be authorised by the Central Government, by notification in the Official Gazette;

(b) "basic wages" means all emoluments which are earned by an employee while on duty or on leave or on holidays with wages in either case in accordance with the terms of the contract of employment and which are paid or payable in cash to him, but does not include-

- i. The cash value of any food concession;
- ii. Any dearness allowance that is to say, all cash payments by whatever name called paid to an employee on account of a rise in the cost of living, house-rent allowance, overtime allowance, bonus, commission or any

other similar allowance payable to the employee in respect of his employment or of work done in such employment;

iii. any presents made by the employer;

(c) "Contribution" means a contribution payable in respect of a member under a scheme or the contribution payable in respect of an employee to whom the Insurance Scheme applies;

(d) "Controlled industry" means any industry the control of which by the Union has been declared by a Central Act to be expedient in the public interest;

(e) "Employer" means-

i. In relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause f of sub-section 1 of section 7 of the Factories Act, 1948 (63 of 1948), the person so named; and

ii. In relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment, and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent;

(f) "employee" means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of an establishment and who gets his wages directly or indirectly from the employer, and includes any person,-

i. Employed by or through a contractor in or in connection with the work of the establishment;

ii. Engaged as an apprentice, not being an apprentice engaged under the Apprentices Act, 1961 (52 of 1961) or under the standing orders of the establishment;

(ff) "exempted employee" means an employee to whom a Scheme or the Insurance Scheme, as the case may be, would, but for the exemption granted under section 17, have applied;

(ff) "exempted establishment" means an establishment in respect of which an exemption has been granted under section 17 from the operation of all or any of the provisions of any Scheme or the Insurance Scheme; as the case may be, whether such exemption has been granted to the establishment as such or to any person or class of persons employed therein;

(g) "factory" means any premises, including the precincts thereof, in any part of which a manufacturing process is being carried on or is ordinarily so carried on, whether with the aid of power or without the aid of power;

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(gg) ***

(ggg) ***

- (h) "Fund" means the Provident Fund established under a Scheme;
- (i) "Industry" means any industry specified in Schedule I, and includes any other industry added to the Schedule by notification under section 4;
- (ia) "Insurance Fund" means the Deposit-linked Insurance Scheme framed under sub-section 2 of section 6C;
- (ib) "Insurance Scheme" means the Employees- Deposit-linked Insurance Scheme framed under sub-section 1 of section 6C;
- (ic) "Manufacture" or "manufacturing process" means any process for making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal;
- (j) "Member" means a member of the Fund;
- (k) "Occupier of a factory" means the person, who has ultimate control over the affairs of the factory, and, where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory;
- (kA) "Pension Fund" means the Employees- Pension Fund established under sub-section 2 of section 6A;
- (kB) "Pension Scheme" means the Employees- Pension Scheme framed under sub-section 1 of section 6A;
- (ka) "prescribed" means prescribed by rules made under this Act;
- (kb) "Recovery Officer" means any officer of the Central Government, State Government or the Board of Trustees constituted under section 5A, who may be authorised by the Central Government, by notification in the Official Gazette, to exercise the powers of a Recovery Officer under this Act;
- (l) "Scheme" means the Employees-Provident Funds scheme framed under section 5;
- (11) "superannuation", in relation to an employee, who is the member of the Pension Scheme, means the attainment, by the said employee, of the age of fifty-eight years.
- (m) "Tribunal" means the Employees- Provident Funds Appellate Tribunal constituted under section 7D.

2A. Establishments to include all departments and branches. - For the removal of doubts, it is hereby declared that where an establishment consists of different departments or has branches, whether situate in the same place or in different places, all such departments or branches shall be treated as parts of the same establishment.

3. Power to apply Act to an establishment which has a common provident fund with another establishment. - Where immediately before this Act becomes

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applicable to an establishment there is in existence a provident fund which is common to the employees employed in that establishment and employees in any other establishment, the Central Government may, by notification in the Official Gazette direct that the provisions of this Act shall also apply to such other establishment.

4. Power to add to Schedule I. -

1. The Central Government may, by notification in the Official Gazette, add to Schedule I any other industry in respect of the employees whereof it is of opinion that a Provident Fund Scheme should be framed under this Act, and thereupon the industry so added shall be deemed to be an industry specified in Schedule I for the purpose of this Act.

2. All notifications under sub-section 1 shall be laid before Parliament, as soon as may be, after they are issued.

5. Employees' Provident Funds Scheme. -

1. The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees- Provident Fund Scheme for the establishment of provident funds under this Act for employees or for any class of employees and specify the establishments or class of establishments to which the said Scheme shall apply and there shall be established, as soon as may be after the framing of the Scheme, a Fund in accordance with the provisions of this Act and the Scheme.

(1A) The Fund shall vest in, and be administered by, the Central Board constituted under section 5A.

(1B) Subject to the provisions of this Act, a Scheme framed under sub-section 1 may provide for all or any of the matters specified in Schedule II.

2. A Scheme framed under sub-section 1 may provide that any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in the Scheme.

5A. Central Board. -

1. The Central Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, a Board of Trustees for the territories to which this Act extends hereinafter in this Act referred to as the Central Board consisting of the following persons as members, namely:-

(a) A Chairman and a Vice-Chairman to be appointed by the Central Government;

(aa) the Central Provident Fund Commissioner, Ex officio;

(b) not more than five persons appointed by the Central Government from amongst its officials;

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- (c) not more than fifteen persons representing Governments of such States as the Central Government may specify in this behalf, appointed by the Central Government;
 - (d) ten persons representing employers of the establishments to which the Scheme applies, appointed by the Central Government after consultation with such organisations of employers as may be recognised by the Central Government in this behalf; and
 - (e) ten persons representing employees in the establishments to which the Scheme applies, appointed by the Central Government after consultation with such organisations of employees as may be recognised by the Central Government in this behalf.
2. The terms and conditions subject to which a member of the Central Board may be appointed and the time, place and procedure of the meetings of the Central Board shall be such as may be provided for in the Scheme.
 3. The Central Board shall subject to the provisions of section 6 and section 6C administer the Fund vested in it in such manner as may be specified in the Scheme.
 4. The Central Board shall perform such other functions as it may be required to perform by or under any provisions of the Scheme, the Pension Scheme and the Insurance scheme.
 5. The Central Board shall maintain proper accounts of its income and expenditure in such form and in such manner as the Central Government may, after consultation with the Comptroller and Auditor-General of India, specify in the Scheme.
 6. The accounts of the Central Board shall be audited annually by the comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Central Board to the Comptroller and Auditor-General of India.
 7. The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Central Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General has, in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers, documents and papers and inspect any of the offices of the Central Board.
 8. The accounts of the Central Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded to the Central Board which shall forward the same to the Central Government along with its comments on the report of the Comptroller and Auditor-General.

9. It shall be the duty of the Central Board to submit also to the Central Government an annual report of its work and activities and the Central Government shall cause a copy of the annual report, the audited accounts together with the report of the Comptroller and Auditor-General of India and the comments of the Central Board thereon to be laid before each House of Parliament.

5AA. Executive Committee. —

1. The Central Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, an Executive Committee to assist the Central Board in the performance of its functions.
2. The Executive Committee shall consist of the following persons as members, namely:-
 - (a) a Chairman appointed by the Central Government from amongst the members of the Central Board;
 - (b) two persons appointed by the Central Government from amongst the persons referred to in clause b of sub-section 1 of section 5A;
 - (c) three persons appointed by the Central Government from amongst the persons referred to in clause c of sub-section 1 of section 5A;
 - (d) three persons representing the employers elected by the Central Board from amongst the persons referred to in clause d of sub-section 1 of section 5A;
 - (e) three persons representing the employees elected by the Central Board from amongst the persons referred to in clause e of sub-section 1 of section 5A;
 - (f) the Central Provident Fund Commissioner, ex-officio.
3. The terms and conditions subject to which a member of the Central Board may be appointed or elected to the Executive Committee and the time, place and procedure of the meetings of the Executive Committee shall be such as may be provided for in the Scheme.

5B. State Board.-

1. The Central Government may, after consultation with the Government of any State, by notification in the Official Gazette, constitute for that State a Board of Trustees hereinafter in this Act referred to as the State Board in such manner as may be provided for in the Scheme.
2. A State Board shall exercise such powers and perform such duties as the Central Government may assign to it from time to time.
3. The terms and conditions subject to which a member of a State Board may be appointed and the time, place and procedure of the meetings of a State Board shall be such as may be provided for in the Scheme.

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5C. Board of Trustees to be body corporate.- Every Board of Trustees constituted under section 5A or section 5B shall be a body corporate under the name specified in the notification constituting it, having perpetual succession and a common seal and shall by the said name sue and be sued.

5D. Appointment of officers. -

1. The Central Government shall appoint a Central Provident Fund Commissioner who shall be the chief executive officer of the Central Board and shall be subject to the general control and superintendence of that Board.
2. The Central Government may also appoint a Financial Adviser and Chief Accounts Officer to assist the Central Provident Fund Commissioner in the discharge of his duties.
3. The Central Board may appoint, subject to the maximum scale of pay, as may be specified in the Scheme, as many Additional Central Provident Fund Commissioners, Deputy Provident Fund Commissioners, Regional Provident Fund Commissioners, Assistant Provident Fund Commissioners and such other officers and employees as it may consider necessary for the efficient administration of the Scheme, the Pension Scheme and the Insurance Scheme.
4. No appointment to the post of the Central Provident Fund Commissioner or an Additional Central Provident Fund Commissioner or a Financial Adviser and Chief Accounts Officer or any other post under the Central Board carrying a scale of pay equivalent to the scale of pay of any Group „A or Group „B post under the Central Government shall be made except after consultation with the Union Public Service Commission:

Provided that no such consultation shall be necessary in regard to any such appointment -

- (a) for a period not exceeding one year; or
- (b) if the person to be appointed is at the time of his appointment-
 - i. a member of the Indian Administrative Service, of
 - ii. in the service of the Central Government or a State Government or the Central Board in a Group „A□ or Group „B□ post.
5. A state Board may, with the approval of the State Government concerned, appoint such staff as it may consider necessary.
6. The method of recruitment, salary and allowances, discipline and other conditions of service of the Central Provident Fund Commissioner, and the Financial Adviser and Chief Accounts Officer shall be such as may be specified by the Central Government and such salary and allowances shall be paid out of the fund.
7. (a) The method of recruitment, salary and allowances, discipline and other conditions of service of the Additional Central Provident Fund Commissioner,

Deputy Provident Fund Commissioner, Regional Provident Fund Commissioner, Assistant Provident Fund Commissioner and other officers and employees of the Central Board shall be such as may be specified by the Central Board in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay: Provided that where the Central Board is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government.

(b) In determining the corresponding scales of pay of officers and employees under clause a, the Central Board shall have regard to the educational qualifications, method of recruitment, duties and responsibilities of such officers and employees under the Central Government and in case of any doubt, the Central Board shall refer the matter to the Central Government whose decision thereon shall be final.

8. The method of recruitment, salary and allowances, discipline and other conditions of service of officers and employees of a State Board shall be such as may be specified by that Board, with the approval of the State Government concerned.

5DD. Acts and proceedings of the Central Board or its Executive Committee or the State Board not to be invalidated on certain grounds. – No act done or proceeding taken by the Central Board or the Executive Committee constituted under section 5AA or the State Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Central Board or the Executive Committee or the State Board, as the case may be.

5E. Delegation. - The Central Board may delegate to the Executive Committee or to the Chairman of the Board or to any of its officers and a State Board may delegate to its Chairman or to any of its officers, subject to such conditions and limitations, if any, as it may specify, such of its powers and functions under this Act as it may deem necessary for the efficient administration of the Scheme, the Pension Scheme and the Insurance Scheme.

6. Contributions and matters which may be provided for in Schemes. – The contribution which shall be paid by the employer to the Fund shall be ten percent. Of the basic wages, dearness allowance and retaining allowance, if any, for the time being payable to each of the employees whether employed by him directly or by or through a contractor, and the employee's contribution shall be equal to the contribution payable by the employer in respect of him and may, if any employee so desires, be an amount exceeding ten percent of his basic wages, dearness allowance and retaining allowance if any, subject to the condition that the employer shall not be under an obligation to pay any contribution over and above his contribution payable under this section:

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Provided that in its application to any establishment or class of establishments which the Central Government, after making such inquiry as it deems fit, may, by notification in the Official Gazette specify, this section shall be subject to the modification that for the words "ten percent", at both the places where they occur, the words "12 percent" shall be substituted:

Provided further that where the amount of any contribution payable under this Act involves a fraction of a rupee, the Scheme may provide for rounding off of such fraction to the nearest rupee, half of a rupee, or quarter of a rupee.

Explanation I – For the purposes of this section dearness allowance shall be deemed to include also the cash value of any food concession allowed to the employee.

Explanation II. – For the purposes of this section, "retaining allowance" means allowance payable for the time being to an employee of any factory or other establishment during any period in which the establishment is not working, for retaining his services.

6A. Employees' Pension Scheme. –

1. The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Pension Scheme for the purpose of providing for –
 - (a) superannuation pension, retiring pension or permanent total disablement pension to the employees of any establishment or class of establishments to which this Act applies; and
 - (b) Widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees.
2. Notwithstanding anything contained in section 6, there shall be established, as soon as may be after framing of the Pension Scheme, a Pension Fund into which there shall be paid, from time to time, in respect of every employee who is a member of the Pension Scheme, –
 - (a) such sums from the employer's contribution under section 6, not exceeding eight and one-third per cent of the basic wages, dearness allowance and retaining allowance, if any, of the concerned employees, as may be specified in the Pension Scheme;
 - (b) such sums as are payable by the employers of exempted establishments under sub-section (6) of section 17;
 - (c) the net assets of the Employees' Family Pension as on the date of establishment of the Pension Fund;
 - (d) such sums as the central Government may, after due appropriation by Parliament by law in this behalf, specify.
3. On the establishment of the Pension Fund, the Family Pension Scheme hereinafter referred to as the ceased scheme shall cease to operate and all

assets of the ceased scheme shall vest in and shall stand transferred to, and all liabilities under the ceased scheme shall be enforceable against, the Pension Fund and the beneficiaries under the ceased scheme shall be entitled to draw the benefits, not less than the benefits, they were entitled to under the ceased scheme, from the Pension fund.

4. Pension Fund shall vest in and be administered by the Central Board in such manner as may be specified in the Pension Scheme.
5. Subject to the provisions of this Act, the Pension Scheme may provide for all or any of the matters specified in Schedule III.
6. The Pension Scheme may provide that all or any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in that behalf in that scheme.
7. A Pension Scheme, framed under sub-section 1 shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme or both Houses agree that the scheme should not be made, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the scheme.

6C. Employees' Deposit-linked Insurance Scheme. -

1. The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Deposit-linked Insurance Scheme for the purpose of providing life insurance benefits to the employees of any establishment or class of establishments to which this Act applies.
2. There shall be established, as soon as may be after the framing of Insurance Scheme, a Deposit-linked Insurance Fund into which shall be paid by the employer from time to time in respect of every such employee in relation to whom he is the employer, such amount, not being more than one per cent of the aggregate of the basic wages, dearness allowance and retaining allowance if any for the time being payable in relation to such employee as the Central Government may, by notification in the Official Gazette, specify.

Explanation. - For the purposes of this sub-section, the expressions "dearness allowance" and "retaining allowance" have the same meanings as in section 6.

3. ***

4. (a) The employer shall pay into the Insurance Fund such further sums of money, not exceeding one-fourth of the contribution which he is required to make under

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sub-section 2, as the Central Government may, from time to time, determine to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under that Scheme.

(b) ***

5. The Insurance Fund shall vest in the Central Board and be administered by it in such manner as may be specified in the Insurance Scheme.
6. The insurance Scheme may provide for all or any of the matters specified in Schedule IV.
7. The Insurance Scheme may provide that any of its provision shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in that Scheme.

6D. Laying of Schemes before Parliament. - Every scheme framed under section 5, section 6A and section 6C shall be laid, as soon as may be after it is framed, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme, or both Houses agree that the scheme should not be framed, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme.

8. Modification of Scheme -

1. The Central Government may, by notification in the Official Gazette add to, amend or vary either prospectively or retrospectively, the Scheme, the Pension Scheme or the Insurance Scheme, as the case may be.
2. Every notification issued under sub-section 1 shall be laid, as soon as may be after it is issued, before each House of Parliament while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

7A. Determination of moneys due from employers. -

1. The Central Provident Fund Commissioner, any Additional Central Provident Fund Commissioner, any Deputy Provident Fund Commissioner, any Regional

Provident Fund Commissioner or any Assistant Provident Fund Commissioner may, by order,

- (a) in a case where a dispute arises regarding the applicability of this Act to an establishment, decide such dispute; and
 - (b) (b) determine the amount due from any employer under any provision of this Act, the Scheme or the Pension Scheme or the Insurance Scheme, as the case may be, and for any of the aforesaid purposes may conduct such inquiry as he may deem necessary.
2. The officer conducting the inquiry under sub-section 1 shall, for the purposes of such inquiry have the same powers as are vested in a court under the code of Civil Procedure, 1908 (5 of 1908), for trying a suit in respect of the following matters, namely:-
- (a) enforcing the attendance of any person or examining him on oath;
 - (b) requiring the discovery and production of documents;
 - (c) receiving evidence on affidavit;
 - (d) issuing commissions for the examination of witnesses, and any such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code 45 of 1960.
3. No order shall be made under sub-section 1, unless the employer concerned is given a reasonable opportunity of representing his case.
- (3A) Where the employer, employee or any other person required to attend the inquiry under sub-section 1 fails to attend such inquiry without assigning any valid reason or fails to produce any document or to file any report or return when called upon to do so, the officer conducting the inquiry may decide the applicability of the Act or determine the amount due from any employer, as the case may be, on the basis of the evidence adduced during such inquiry and other documents available on record.
4. Where an order under sub-section 1 is passed against an employer ex-parte, he may, within three months from the date of communication of such order, apply to the officer for setting aside such order and if he satisfies the officer that the show cause notice was not duly served or that he was prevented by any sufficient cause from appearing when the inquiry was held, the officer shall make an order setting aside his earlier order and shall appoint a date for proceeding with the inquiry:

Provided that no such order shall be set aside merely on the ground that there has been an irregularity in the service of the show cause notice if the officer is satisfied that the employer had notice of the date of hearing and had sufficient time to appear before the officer.

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Explanation.- Where an appeal has been preferred under this Act against an order passed ex parte and such appeal has been disposed of otherwise than on the ground that the appellant has withdrawn the appeal, no application shall lie under this sub-section for setting aside the ex parte order.

5. No order passed under this section shall be set aside on any application under sub-section 4 unless notice thereof has been served on the opposite party.

7B. Review of orders passed under Section 7A. - (1) Any person aggrieved by an order made under sub-section 1 of section 7A, but from which no appeal has been preferred under this Act, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the order was made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of such order may apply for a review of that order to the officer who passed the order:

Provided that such officer may also on his own motion review his order if he is satisfied that it is necessary so to do on any such ground.

2. Every application for review under sub-section 1 shall be filed in such form and manner and within such time as may be specified in the Scheme.
3. Where it appears to the officer receiving an application for review that there is no sufficient ground for a review, he shall reject the application.
4. Where the officer is of opinion that the application for review should be granted, he shall grant the same:

Provided that, -

- (a) No such application shall be granted without previous notice to all the parties before him to enable them to appear and be heard in support of the order in respect of which a review is applied for, and
 - (b) No such application shall be granted on the ground of discovery of new matter or evidence which the applicant alleges was not within his knowledge or could not be produced by him when the order was made, without proof of such allegation.
5. No appeal shall lie against the order of the officer rejecting an application for review, but an appeal under this Act shall lie against an order passed under review as if the order passed under review were the original order passed by him under section 7A.

7C. Determination of escaped amount. - Where an order determining the amount due from an employer under section 7A or section 7B has been passed and if the officer who passed the orders -

- (a) has reason to believe that by reason of the omission or failure on the part of the employer to make any document or report available, or to disclose, fully and truly, all material facts necessary for determining the correct

amount due from the employer, any amount so due from such employer for any period has escaped his notice;

- (b) has, in consequence of information in his possession, reason to believe that any amount to be determined under section 7A or section 7B has escaped from his determination for any period notwithstanding that there has been no omission or failure as mentioned in clause a on the part of the employer, he may, within a period of five years from the date of communication of the order passed under section 7A or section 7B, re-open the case and pass appropriate orders re-determining the amount due from the employer in accordance with the provisions of this Act: Provided that no order re-determining the amount due from the employer shall be passed under this section unless the employer is given a reasonable opportunity of representing his case.

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7D. Employees' Provident Funds Appellate Tribunal. -

1. The Central Government may, by notification in the Official Gazette, constitute one or more Appellate Tribunals to be known as the Employees' Provident Funds Appellate Tribunal to exercise the powers and discharge the functions conferred on such Tribunal by this Act and every such Tribunal shall have jurisdiction in respect of establishments situated in such area as may be specified in the notification constituting the Tribunal.
2. A Tribunal shall consist of one person only to be appointed by the Central Government.
3. A person shall not be qualified for appointment as a Presiding Officer of a Tribunal hereinafter referred to as the Presiding Officer, unless he is, or has been, or is qualified to be, -
 - i. a Judge of a High Court; or
 - ii. a District Judge.

7E. Term of office. - The Presiding Officer of a Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier.

7F. Resignation. -

1. The Presiding Officer may, by notice in writing under his hand addressed to the Central Government, resign his office; Provided that the Presiding Officer shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.
2. The Presiding Officer shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the High Court in which such Presiding Officer had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

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3. The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Presiding Officer.

7G. Salary and allowances and other terms and conditions of service of Presiding Officer. - The salary and allowances payable to, and the other terms and conditions of service including pension, gratuity and other retirement benefits of, the Presiding Officer shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Presiding Officer shall be varied to his disadvantage after his appointment.

7H. Staff of the Tribunal. -

1. The Central Government shall determine the nature and categories of the officers and other employees required to assist a Tribunal in the discharge of its functions and provide the Tribunal with such officers and other employees as it may think fit.
2. The officers and other employees of a Tribunal shall discharge their functions under the general superintendence of the Presiding Officer.
3. The salaries and all allowances and other conditions of service of the officers and other employees of a Tribunal shall be such as may be prescribed.

7 - I. Appeals to the Tribunal. -

1. Any person aggrieved by a notification issued by the Central Government, or an order passed by the Central Government, or any authority, under the proviso to sub-section 3, or sub-section 4, of section 1, or section 3, or sub-section 1 of section 7A, or section 7B except an order rejecting an application for review referred to in sub-section 5 thereof, or section 7C, or section 14B may prefer an appeal to a Tribunal against such order.
2. Every appeal under sub-section 1 shall be filed in such form and manner, within such time and be accompanied by such fees, as may be prescribed.

7 - J. Procedure of Tribunals. -

1. A Tribunal shall have power to regulate its own procedure in all matters arising out of the exercise of its powers or of the discharge of its functions including the places at which the Tribunal shall have its sittings.
2. A Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the officers referred to in section 7A and any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860) and the Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

7K. Right of appellant to take assistance of legal practitioner and of Government, etc., to appoint presenting officers. –

1. A person preferring an appeal to a Tribunal under this Act may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Tribunal.
2. The Central Government or a State Government or any other authority under this Act may authorise one or more legal practitioners or any of its officers to act as presenting officers and every person so authorised may present the case with respect to any appeal before a Tribunal.

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7L. Orders of Tribunal. –

1. A Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order appealed against or may refer the case back to the authority which passed such order with such directions as the tribunal may think fit, for a fresh adjudication or order, as the case may be, after taking additional evidence, if necessary.
2. A Tribunal may, at any time within five years from the date of its order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section.1 and shall make such amendment in the order if the mistake is brought to its notice by the parties to the appeal: Provided that an amendment which has the effect of enhancing the amount due from, or otherwise increasing the liability of, the employer shall not be made under this sub-section, unless the Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.
3. A Tribunal shall send a copy of every order passed under this section to the parties to the appeal.
4. Any order made by a Tribunal finally disposing of an appeal shall not be questioned in any court of law.

7M. Filling up of vacancies. – If, for any reason, a vacancy occurs in the office of the Presiding Officer, the Central Government shall appoint another person in accordance with the provisions of this Act, to fill the vacancy and the proceedings may be continued before a Tribunal from the stage at which the vacancy is filled.

7N. Finality of orders constituting a Tribunal. – No order of the Central Government appointing any person as the Presiding Officer shall be called in question in any manner, and no act or proceeding before a Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of such Tribunal.

7-O. Deposit of amount due, on filing appeal. – No appeal by the employer shall be entertained by a Tribunal unless he has deposited with it seventy-five per cent of the amount due from him as determined by an officer referred to in section 7A: Provided that the Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this section.

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7P. Transfer of certain applications to Tribunals. – All applications which are pending before the Central Government under section 19A, shall stand transferred to a Tribunal exercising jurisdiction in respect of establishments in relation to which such applications had been made as if such applications were appeals preferred to the Tribunal.

7Q. The employer shall be liable to pay simple interest at the rate of twelve per cent per annum or at such higher rate as may be specified in the Scheme on any amount due from him under this Act from the date on which the amount has become so due till the date of its actual payment:

Provided that higher rate of interest specified in the Scheme shall not exceed the lending rate of interest charged by any scheduled bank.

8. Mode of recovery of moneys due from employers— any amount due -

(a) From the employer in relation to an establishment to which any Scheme or the Insurance Scheme applies in respect of any contribution payable to the Fund or, as the case may be, the Insurance Fund, damages recoverable under section 14B, accumulations required to be transferred under sub-section 2 of section 15 or under sub-section 5 of section 17 or any charges payable by him under any other provision of this Act or of any provision of the Scheme or the Insurance Scheme; or

(b) From the employer in relation to an exempted establishment in respect of any damages recoverable under section 14B or any charges payable by him the appropriate Government under any provision of this Act or under any of the conditions specified under section 17 or in respect of the contribution payable by him towards the Pension Scheme under the said section 17, may, if the amount is in arrear, be recovered in the manner specified in section 8B to 8G.

8A. Recovery of moneys by employers and contractors.

1. The amount of contribution that is to say, the employers contribution as well as the employees contribution in pursuance of any Scheme and the employer's contribution in pursuance of the Insurance Scheme and any charges for meeting the cost of administering the Fund paid or payable by an employer in respect of an employee employed by or through a contractor may be recovered by such employer from the contractor, either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.
2. A contractor from whom the amounts mentioned in sub-section 1 may be recovered in respect of any employee employed by or through him, may recover from such employee the employee's contribution under any Scheme by deduction from the basic wages, dearness allowance and retaining allowance if any payable to such employee.

3. Notwithstanding any contract to the contrary, no contractor shall be entitled to deduct the employer's contribution or the charges referred to in sub-section 1 from the basic wages, dearness allowance, and retaining allowance if any payable to an employee employed by or through him or otherwise to recover such contribution or charges from such employee.

Explanation. - In this section, the expressions "dearness allowance" and "retaining allowance" shall have the same meanings as in section 6.

8B. Issue of certificate to the Recovery Officer.

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1. Where any amount is in arrear under section 8, the authorised officer may issue, to the Recovery Officer, a certificate under his signature specifying the amount of arrears and the Recovery Officer, on receipt of such certificate, shall proceed to recover the amount specified therein from the establishment or, as the case may be, the employer by one or more of the modes mentioned below:-

- (a) attachment and sale of the movable or immovable property of the establishment or, as the case may be, the employer;
- (b) arrest of the employer and his detention in prison;
- (c) appointing a receiver for the management of the movable or immovable properties of the establishment or, as the case may be, the employer:

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Provided that the attachment and sale of any property under this section shall first be effected against the properties of the establishment and where such attachment and sale is insufficient for recovery the whole of the amount of arrears specified in the certificate, the Recovery Officer may take such proceedings against the property of the employer for recovery of the whole or any part of such arrears.

2. The authorised officer may issue a certificate under sub-section 1, notwithstanding that proceedings for recovery of the arrears by any other mode have been taken.

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8C. Recovery officer to whom certificate is to be forwarded.

1. The authorised officer may forward the certificate referred to in section 8B to the Recovery Officer within whose jurisdiction the employer -

- (a) carries on his business or profession or within whose jurisdiction the principal place of his establishment is situated; or
- (b) resides or any movable or immovable property of the establishment or the employer is situated.

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2. Where an establishment or the employer has property within the jurisdiction of more than one Recovery Officers and the Recovery Officer to whom a certificate is sent by the authorised officer -

- (a) is not able to recover the entire amount by the sale of the property movable or immovable, within his jurisdiction; or
- (b) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount, it is necessary so to do,

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he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified in the prescribed manner and specifying the amount to be recovered to the Recovery Officer within whose jurisdiction the establishment or the employer has property or the employer resides, and thereupon that Recovery Officer shall also proceed to recover the amount due under this section as if the certificate or the copy thereof had been the certificate sent to him by the authorised officer.

8D. Validity of certificate, and amendment thereof.

1. When the authorised officer issues a certificate to a Recovery Officer under section 8B, it shall not be open to the employer to dispute before the Recovery Officer the correctness of the amount, and no objection to the certificate on any other ground shall also be entertained by the Recovery Officer.
2. Notwithstanding the issue of a certificate to a Recovery Officer, the authorised officer shall have power to withdraw the certificate or correct any clerical or arithmetical mistake in the certificate by sending an intimation to the Recovery Officer.
3. The authorised officer shall intimate to the Recovery Officer any orders withdrawing or canceling a certificate or any correction made by him under sub-section 2 or any amendment made under sub-section 4 of section 8E.

8E. Stay of proceedings under certificate and amendment or withdrawal thereof.

1. Notwithstanding that a certificate has been issued to the Recovery Officer for the recovery of any amount, the authorised officer may grant time for the payment of the amount, and thereupon the Recovery Officer shall stay the proceedings until the expiry of the time so granted.
2. Where a certificate for the recovery of amount has been issued, the authorised officer shall keep the Recovery Officer informed of any amount paid or time granted for payment, subsequent to the issue of such certificate.
3. Where the order giving rise to a demand of amount for which a certificate for recovery has been issued has been modified in appeal or other proceeding under this Act, and, as a consequence thereof, the demand is reduced but the order is the subject-matter of further proceeding under this Act, the authorised officer shall stay the recovery of such part of the amount of the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending.
4. Where a certificate for the recovery of amount has been issued and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Act, the authorised officer shall, when the order which was the subject-matter of such appeal or other proceeding has become final and conclusive, amend the certificate or withdraw it, as the case may be.

8F. Other modes of recovery.

1. Notwithstanding the issue of a certificate to the Recovery Officer under section 8B, the Central Provident Fund Commissioner or any other officer authorised by the Central Board may recover the amount by any one or more of the modes provided in this section.
2. If any amount is due from any person to any employer who is in arrears, the Central Provident Fund Commissioner or any other officer authorised by the Central Board in this behalf may require such person to deduct from the said amount the arrears due from such employer under this Act, and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Central Provident Fund Commissioner or the officer so authorised, as the case may be:

Provided that nothing in this sub-section shall apply to any part of the amount exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908 (5 of 1908).

3. (i) The Central Provident Fund Commissioner or any other officer authorised by the Central Board in this behalf may, at any time or from time to time, by notice in writing, require any person from whom money is due or may become due to the employer or, as the case may be, the establishment or any person who holds or may subsequently hold money for or on account of the employer or as the case may be, the establishment, to pay to the Central Provident Fund Commissioner either forthwith upon the money becoming due or being held or at or within the time specified in the notice not being before the money becomes due or is held so much of the money as is sufficient to pay the amount due from the employer in respect of arrears or the whole of the money when it is equal to or less than that amount.
 - ii. A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the employer jointly with any other person and for the purposes of this sub-section, the shares of the joint holders in such account shall be presumed, until the contrary is proved, to be equal.
 - iii. A copy of the notice shall be forwarded to the employer at his last address known to the Central Provident Fund Commissioner or as the case may be, the officer so authorised and in the case of a joint account to all the joint holders at their last addresses known to the Central Provident Fund Commissioner or the officer so authorised.
 - iv. Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, bank or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the pur-

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- pose of any entry, endorsement or the like being made before payment is made notwithstanding any rule, practice or requirement to the contrary.
- v. Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.
 - vi. Where a person to whom a notice under this sub-section is sent objects to it by a statement on oath that the sum demanded or any part thereof is not due to the employer or that he does not hold any money for or on account of the employer, then nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the Central Provident Fund Commissioner or the officer so authorised to extent of his own liability to the employer on the date of the notice, or to the extent of the employer's liability for any sum due under this Act, whichever is less.
 - vii. The Central Provident Fund Commissioner or the officer so authorised may, at any time or from time to time, amend or revoke any notice issued under this sub-section or extend the time for making any payment in pursuance of such notice.
 - viii. The Central Provident Fund Commissioner or the officer so authorised shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from his liability to the employer to the extent of the amount so paid.
 - ix. Any person discharging any liability to the employer after the receipt of a notice under this sub-section shall be personally liable to the Central Provident Fund Commissioner or the officer so authorised to the extent of his own liability to the employer so discharged or to the extent of the employer's liability for any sum due under this Act, whichever is less.
 - x. If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Central Provident Fund Commissioner or the officer so authorised he shall be deemed to be an employer in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear due from him, in the manner provided in sections 8B to 8E and the notice shall have the same effect as an attachment of a debt by the Recovery Officer in exercise of his powers under section 8B.
4. The Central Provident Fund Commissioner or the officer authorised by the Central Board in this behalf may apply to the court in whose custody there is money belonging to the employer for payment to him of the entire amount

of such money, or if it is more than the amount due, an amount sufficient to discharge the amount due.

5. The Central Provident Fund Commissioner or any officer not below the rank of Assistant Provident Fund Commissioner may, if so authorised by the Central Government by general or special order, recover any arrears of amount due from an employer or, as the case may be, from the establishment by distraint and sale of his or its movable property in the manner laid down in the Third Schedule to the Income-Tax Act, 1961 (43 of 1961).

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8G. Application of certain provisions of Income-tax Act.

The provisions of the Second and Third Schedules to the Income-tax Act, 1961 (43 of 1961) and the Income-tax Certificate Proceedings rules, 1962, as in force from time to time, shall apply with necessary modifications as if the said provisions and the rules referred to the arrears of the amount mentioned in section 8 of this Act instead of to the income-tax:

Provided that any reference in the said provisions and the rules to the "assessee" shall be construed as a reference to an employer as defined in this Act.

9. Fund to be recognised under Act 11 of 1922.

For the purpose of the Indian Income-tax Act, 1922 (11 of 1922), the Fund shall be deemed to be a recognised provident fund within the meaning of Chapter IXA of that Act:

Provided that nothing contained in the said Chapter shall operate to render ineffective any provision of the Scheme under which the Fund is established, which is repugnant to any of the provisions of that Chapter or of the rules made thereunder.

10. Protection against attachment.

1. amount standing to the credit of any member in Fund or of any exempted employee in a provident fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the member or the exempted employee, and neither the official assignee appointed under the Presidency Towns Insolvency Act, 1909 (3 of 1909) nor any receiver appointed under the Provincial Insolvency Act, 1920 (5 of 1920), shall be entitled to have any claim on, any such amount.
2. Any amount standing to the credit of a member in the fund or of an exempted employee in a provident fund at the time of his death and payable to his nominee under the Scheme or the rules of the provident fund shall, subject to any deduction authorised by the said Scheme or rules, vest in the nominee and shall be free from any debt or other liability incurred by the deceased or the nominee before the death of the member or of exempted employee and shall also not be liable to attachment under any decree or order of any court.

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3. The provisions of sub-section 1 and sub-section 2 shall, so far as may be, apply in relation to the pension or any other amount, payable under the Pension Scheme and also in relation to any amount payable under the Insurance Scheme as they apply in relation to any amount payable out of the Fund.

11: Priority of payment of contributions over other debts.

1. Where any employer is adjudicated insolvent or, being a company, an order for winding up is made, the amount due -

(a) from the employer in relation to an establishment to which any Scheme or the Insurance Scheme applies in respect of any contribution payable to the Fund or, as the case may be, the Insurance Fund damages recoverable under section 14B, accumulations required to be transferred under sub-section 2 of section 15 or any charges payable by him under any other provision of this Act or of any provision of the Scheme or the Insurance Scheme; or

(b) from the employer in relation to an exempted establishment in respect of any contribution to the provident fund or any insurance fund in so far as it relates to exempted employees, under the rules of the provident fund or any insurance fund, any contribution payable by him towards the Pension Fund under sub-section 6 of section 17, damages recoverable under section 14B or any charges payable by him to the appropriate Government under any provision of this Act, or under any of the conditions specified under section 17, shall where the liability therefore has accrued before the order of adjudication or winding up is made, be deemed to be included among the debts which under section 49 of the Presidency Towns Insolvency Act, 1909 (3 of 1909) or under section 61 of the Provincial Insolvency Act, 1920 (5 of 1920) or under section 530 of the Companies Act, 1956 (1 of 1956), are to be paid in priority to all other debts in the distribution of the property of the insolvent or the assets of the company being wound up, as the case may be.

Explanation. - In this sub-section, and in section 17, "insurance fund" means any fund established by an employer under any scheme for providing benefits in the nature of life insurance to employees, whether linked to their deposits in provident fund or not, without payment by the employees of any separate contribution or premium in that behalf.

2. Without prejudice to the provisions of sub-section 1, if any amount is due from an employer, whether in respect of the employee's contribution deducted from the wages of the employees or the employer's contribution, the amount so due shall be deemed to be the first charge on the assets of the establishment, and shall, notwithstanding anything contained in any other law for the time being in force, be paid in priority to all other debts.

12. Employer not to reduce wages, etc.

No employer in relation to an establishment to which any Scheme or the Insurance Scheme applies shall, by reason only of his liability for the payment of any contribution to the Fund or the Insurance Fund or any charges under this Act or the Scheme or the Insurance Scheme reduce whether directly or indirectly, the wages of any employee to whom the Scheme or the Insurance Scheme applies or the total quantum of benefits in the nature of old age pension, gratuity, provident fund or life insurance to which the employee is entitled under the terms of his employment, express or implied.

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13. Inspectors.

1. The appropriate Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act, the Scheme, the Pension Scheme or the Insurance Scheme and may define their jurisdiction.
2. Any Inspector appointed under sub-section 1 may, for the purpose of inquiring into the correctness of any information furnished in connection with this Act or with any Scheme or the Insurance Scheme or for the purpose of ascertaining whether any of the provisions of this Act or of any Scheme or the Insurance Scheme have been complied with in respect of an establishment to which any Scheme or the Insurance Scheme applies or for the purpose of ascertaining whether the provisions of this Act or any Scheme or the Insurance Scheme are applicable to any establishment to which the Scheme or the Insurance Scheme has not been applied or for the purpose of determining whether the conditions subject to which exemption was granted under section 17 are being complied with by the employer in relation to an exempted establishment.
 - (a) require an employer or any contractor from whom any amount is recoverable under section 8A to furnish such information as he may consider necessary.
 - (b) At any reasonable time and with such assistance, if any, as he may think fit, enter and search any establishment or any premises connected therewith and require any one found in charge thereof to produce before him for examination any accounts, books, registers and other documents relating to the employment of persons or the payment of wages in the establishment;
 - (c) Examine, with respect to any matter relevant to any of the purposes aforesaid, the employer or any contractor from whom any amount is recoverable under section 8A, his agent or servant or any other person found in charge of the establishment or any premises connected therewith or whom the Inspector has reasonable cause to believe to be or to have been, an employee in the establishment;

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(d) (d) Make copies of, or take extracts from, any book, register or other document maintained in relation to the establishment and, where he has reason to believe that any offence under this Act has been committed by an employer, seize with such assistance as he may think fit, such book, register or other document or portions thereof as he may consider relevant in respect of that offence;

(e) (e) Exercise such other powers as the Scheme may provide.

(2A) Any Inspector appointed under sub-section 1 may, for the purpose of inquiring into the correctness of any information furnished in connection with the Pension Scheme or for the purpose of ascertaining whether any of the provisions of this Act or of the Pension Scheme have been complied with in respect of an establishment to which the Pension Scheme applies, exercise all or any of the powers conferred on him under clause a, b, clause c, or clause d sub-section 2.

(2B) The provisions of the Code of Criminal Procedure, 1898 (5 of 1898) shall, so far as may be, apply to any search or seizure under sub-section 2 or under sub-section 2A, as the case may be, as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code.

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14. Penalties.

1. Whoever, for the purpose of avoiding any payment to be made by himself under this Act, the Scheme, the Pension Scheme or the Insurance Scheme or of enabling any other person to avoid such payment, knowingly makes or causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extend to one year, or with fine of five thousand rupees, or with both.

(1A) An employer who contravenes, or makes default in complying with, the provisions of section 6 or clause a of sub-section 3 of section 17 in so far as it relates to the payment of inspection charges, or paragraph 38 of the Scheme in so far as it relates to the payment of administrative charges, shall be punishable with imprisonment for a term which may extend to three years but –

(a) which shall not be less than one year and a fine of ten thousand rupees in case of default in payment of the employees' contribution which has been deducted by the employer from the employees' wages;

(b) which shall not be less than six months and a fine of five thousand rupees, in any other case:

Provided that the Court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term.

(1B) An employer who contravenes, or makes default in complying with, the provisions of section 6C, or clause a of sub-section 3A of section 17 in so far as it relates to the payment of inspection charges, shall be punishable with imprisonment

for a term which may extend to one year but which shall not be less than six months and shall also be liable to fine which may extend to five thousand rupees:

Provided that the Court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term.

2. Subject to the provisions of this Act, the Scheme, the Pension Scheme or the Insurance Scheme may provide that any person who contravenes, or makes default in complying with, any of the provisions thereof shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to four thousand rupees, or with both.

(2A) Whoever contravenes or makes default in complying with any provision of this Act or of any condition subject to which exemption was granted under section 17 shall, if no other penalty is elsewhere provided by or under this Act for such contravention or non-compliance, be punishable with imprisonment which may extend to six months, but which shall not be less than one month, and shall also be liable to fine which may extend to five thousand rupees.

14A. Offences by companies

1. If the person committing an offence under this Act, the Scheme or the Pension Scheme or the Insurance Scheme is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

2. Notwithstanding anything contained in sub-section 1 where an offence under this Act, the Scheme or the Pension Scheme or the Insurance Scheme has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any Director or Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation – For the purposes of this section, -

- (c) “Company” means any body corporate and includes a firm and other association of individuals; and
- (d) “Director” in relation to a firm, means a partner in the firm.

14AA. Enhanced punishment in certain cases after previous conviction - Whoever, having been convicted by a court of an offence punishable under this Act, the Scheme or the Pension Scheme or the Insurance Scheme, commits the same offence shall be

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subject for every such subsequent offence to imprisonment for a term which may extend to five years, but which shall not be less than two years, and shall also be liable to a fine of twenty five thousand rupees.

14AB. Certain offences to be cognizable - Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898) an offence relating to default in payment of contribution by the employer punishable under this Act shall be cognizable.

14AC. Cognizance and trial of offences - (1) No Court shall take cognizance of any offence punishable under this Act, the Scheme or the Pension Scheme or the Insurance Scheme except on a report in writing of the facts constituting such offence made with the previous sanction of the Central Provident Fund Commissioner or such other officer as may be authorised by the Central Government, by notification in the Official Gazette, in this behalf, by an Inspector appointed under Section 13.

2. No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act or the Scheme or the Pension Scheme or the Insurance Scheme.

14B. Power to recover damages - Where an employer makes default in the payment of any contribution to the Fund the Pension Fund or the Insurance Fund or in the transfer of accumulations required to be transferred by him under sub-section 2 of section 15 or sub-section 5 of section 17 or in the payment of any charges payable under any other provision of this Act or of any Scheme or Insurance Scheme or under any of the conditions specified under section 17, the Central Provident Fund Commissioner or such other officer as may be authorised by the Central Government, by notification in the Official Gazette, in this behalf may recover from the employer by way of penalty such damages, not exceeding the amount of arrears, as may be specified in the Scheme.

Provided that before levying and recovering such damages, the employer shall be given a reasonable opportunity of being heard.

Provided further that the Central Board may reduce or waive the damages levied under this section in relation to an establishment which is a sick industrial company and in respect of which a scheme for rehabilitation has been sanctioned by the Board for Industrial and Financial Reconstruction established under section 4 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), subject to such terms and conditions as may be specified in the Scheme.

14C. Power of court to make orders - (1) Where an employer is convicted of an offence of making default in the payment of any contribution to the Fund, the Pension Fund or the Insurance Fund or in the transfer of accumulations required to be transferred by him under sub-section (2) of section 15 or sub-section (5) of section 17, the court may, in addition to awarding any punishment, by order in writing require him within a period specified in the order which the court may, if it thinks fit and on application

in that behalf from time to time, extend, to pay the amount of contribution or transfer the accumulations, as the case may be, in respect of which the offence was committed.

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3. Where an order is made under sub-section (1), the employer shall not be liable under this Act in respect of the continuation of the offence during the period or extended period, if any, allowed by the court, but if, on the expiry of such period or extended period, as the case may be, the order of the court has not been fully complied with, the employer shall be deemed to have committed a further offence and shall be punished with imprisonment in respect thereof under section 14 and shall also be liable to pay fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with.

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15. Special provisions relating to existing provident funds -

1. Subject to the provisions of section 17, every employee who is a subscriber to any provident fund or an establishment to which this Act applies shall, pending the application of a Scheme to the establishment in which he is employed, continue to be entitled to the benefits accruing to him under the provident fund, and the provident fund shall continue to be maintained in the same manner and subject to the same conditions as it would have been if this Act had not been passed.
2. On the application of any Scheme to an establishment, the accumulations in any provident fund of the establishment, standing to the credit of the employees who become members of the Fund established under the Scheme shall, notwithstanding anything to the contrary contained in any law for the time being in force or in any deed or other instrument establishing the provident fund but subject to the provisions, if any, contained in the Scheme, be transferred to the fund established under the Scheme, and shall be credited to the accounts of the employees entitled thereto in the Fund.

16. Act not to apply to certain establishments - (1) This Act shall not apply -

- (a) to any establishment registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any State relating to co-operative societies employing less than fifty persons and working without the aid of power; or
- (b) to any other establishment belonging to or under the control of the Central Government or a State Government and whose employees are entitled to the benefit of contributory provident fund or old age pension in accordance with any Scheme or rule framed by the Central Government or the State Government governing such benefits; or
- (c) to any other establishment set up under any Central, Provincial or State Act and whose employees are entitled to the benefits of contributory

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provident fund or old age pension in accordance with any scheme or rule framed under that Act governing such benefits;

2. If the Central Government is of opinion that having regard to the financial position of any class of establishments or other circumstances of the case, it is necessary or expedient to do so, it may, by notification in the Official Gazette, and subject to such conditions, as may be specified in the notification, exempt whether prospectively or retrospectively that class of establishments from the operation of this Act for such period as may be specified in the notification.

15A. Authorising certain employers to maintain provident fund accounts - (1) The Central Government may, on an application made to it in this behalf by the employer and the majority of employees in relation to an establishment employing one hundred or more persons, authorise the employer by an order in writing, to maintain a provident fund account in relation to the establishment, subject to such terms and conditions as may be specified in the Scheme :

Provided that no authorisation shall be made under this sub-section if the employer of such establishment had committed any default in the payment of provident fund contribution or had committed any other offence under this Act during the three years immediately preceding the date of such authorisation.

2. Where an establishment is authorised to maintain a provident fund account under sub-section (1), the employer in relation to such establishment shall maintain such account, submit such return, deposit the contribution in such manner, provide for such facilities for inspection, pay such administrative charges, and abide by such other terms and conditions, as may be specified in the Scheme.
3. Any authorisation made under this section may be cancelled by the Central Government by order in writing if the employer fails to comply with any of the terms and conditions of the authorisation or where he commits any offence under any provision of this Act:

Provided that before cancelling the authorisation, the Central Government shall give the employer a reasonable opportunity of being heard.

17. Power to exempt -

1. The appropriate Government may, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification exempt, whether prospectively or retrospectively, from the operation of all or any of the provisions of any Scheme -
 - (a) any establishment to which this Act applies, if, in the opinion of the appropriate Government, the rules of its provident fund with respect to the rates of contribution are not less favourable than those specified in section 6 and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees

- than the benefits provided under this Act or any Scheme in relation to the employees in any other establishment of a similar character; or
- (b) any establishment if the employees of such establishment are in enjoyment of benefits in the nature of provident fund, pension or gratuity and the appropriate Government is of opinion that such benefits, separately or jointly, are on the whole not less favourable to such employees than the benefits provided under this Act or any Scheme in relation to employees in any other establishment of a similar character.

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Provided that no such exemption shall be made except after consultation with the Central Board which on such consultation shall forward its views on exemption to the appropriate Government within such time limit as may be specified in the Scheme.

(1A). Where an exemption has been granted to an establishment under clause (a) of sub-section 1,

- (a) the provisions of sections 6, 7A, 8 and 14B shall, so far as may be, apply to the employer of the exempted establishment in addition to such other conditions as may be specified in the notification granting such exemption, and where such employer contravenes, or makes default in complying with any of the said provision or conditions or any other provision of this Act, he shall be punishable under section 14 as if the said establishment had not been exempted under the said clause a;
- (b) the employer shall establish a Board of Trustees for the administration of the provident fund consisting of such number of members as may be specified in the Scheme;
- (c) the terms and conditions of service of members of the Board of Trustees shall be such as may be specified in the Scheme;
- (d) The Board of Trustees constituted under clause b shall –
- i. maintain detailed accounts to show the contributions credited, withdrawals made and interest accrued in respect of each employee;
 - ii. submit such returns to the Regional Provident Fund Commissioner or any other officer as the Central Government may direct from time to time;
 - iii. invest the provident fund monies in accordance with the directions issued by the Central Government from time to time;
 - iv. transfer, where necessary, the provident fund account of any employee; and
 - v. perform such other duties as may be specified in the Scheme.

(1B) Where the Board of Trustees established under clause (b) of sub-section (1A) contravenes, or makes default in complying with, any provisions of clause (d) of that sub-section, the Trustees of the said Board shall be deemed to have committed an offence under sub-section (2A) of section 14 and shall be punishable with the penalties provided in that sub-section.

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(1C) The appropriate Government may, by notification in the Official Gazette, and subject to the condition on the pattern of investment of pension fund and such other conditions as may be specified therein, exempt any establishment or class of establishments from the operation of the Pension Scheme if the employees of such establishment or class of establishments are either members of any other pension scheme or propose to be members of such pension scheme, where the pensionary benefits are at par or more favourable than the Pension Scheme under this Act.

2. Any Scheme may make provision for exemption of any person or class of persons employed in any establishment to which the Scheme applies from the operation of all or any of the provisions of the Scheme, if such person or class of persons is entitled to benefits in the nature of provident fund, gratuity or old age pension and such benefits, separately or jointly, are on the whole not less favourable than the benefits provided under this Act or the Scheme:

Provided that no such exemption shall be granted in respect of a class of persons unless the appropriate Government is of opinion that the majority of persons constituting such class desire to continue to be entitled to such benefits.

(2A) The Central Provident Fund Commissioner may, if requested so to do by the employer, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt, whether prospectively or retrospectively, any establishment from the operation of all or any of the provisions of the Insurance Scheme, if he is satisfied that the employees of such establishment are, without making any separate contribution or payment of premium, in enjoyment of benefits in the nature of life insurance, whether linked to their deposits in provident fund or not, and such benefits are more favourable to such employees than the benefits admissible under the Insurance Scheme.

(2B) Without prejudice to the provisions of sub-section 2A, the Insurance Scheme may provide for the exemption of any person or class of persons employed in any establishment and covered by that scheme from the operation of all or any of the provisions thereof, if the benefits in the nature of life insurance admissible to such person or class of persons are more favourable than the benefits provided under the Insurance Scheme.

3. Where in respect of any person or class of persons employed in an establishment an exemption is granted under this section from the operation of all or any of the provisions of any Scheme whether such exemption has been granted to the establishment wherein such person or class of persons is employed, or to the person or class of persons as such, the employer in relation to such establishment -
 - (a) shall, in relation to the provident fund, pension and gratuity to which any such person or class of persons is entitled, maintain such accounts, submit such returns, make such investment, provide for such facilities for

inspection and pay such inspection charges, as the Central Government may direct.

- (b) shall not, at any time after the exemption, without the leave of the Central Government, reduce the total quantum of benefits in the nature of pension, gratuity or provident fund to which any such person or class of persons was entitled at the time of exemption; and
- (c) shall, where any such person leaves his employment and obtains re-employment in another establishment to which this Act applies, transfer within such time as may be specified in this behalf by the Central Government, the amount of accumulations to the credit of that person in the provident fund of the establishment left by him to the credit of that person's account in the provident fund of the establishment in which he is re-employed or, as the case may be, in the Fund established under the Scheme applicable to the establishment.

(3A) Where, in respect of any person or class of persons employed in any establishment, an exemption is granted under sub-section (2A) or sub-section (2B) or from the operation of all or any of the provisions of the Insurance Scheme whether such exemption is granted to the establishment wherein such person or class of persons is employed or to the person or class of persons as such, the employer in relation to such establishment --

- (a) shall, in relation to the benefits in the nature of life insurance, to which any such person or class of persons is entitled, or any insurance fund, maintain such accounts, submit such returns, make such investments, provide for such facilities for inspection and pay such inspection charges, as the Central Government may direct;
 - (b) shall not, at any time after the exemption without the leave of the Central Government, reduce the total quantum of benefits in the nature of life insurance to which any such person or class of persons was entitled immediately before the date of the exemption.
 - (c) ***
4. Any exemption granted under this section may be cancelled by the authority which granted it, by order in writing, if an employer fails to comply, -
- (a) in the case of an exemption granted under sub-section 1, with any of the conditions imposed under that sub-section or sub-section 1A or with any of the provisions of sub-section 3;
 - (aa) in the case of an exemption granted under sub-section 1C, with any of the conditions imposed under that sub-section; and
 - (b) in the case of an exemption granted under sub-section 2, with any of the provisions of sub-section 3;

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- (c) in the case of an exemption granted under sub-section 2A, with any of the conditions imposed under that sub-section or with any of the provisions of sub-section 3A;
 - (d) in the case of an exemption granted under sub-section 2B, with any of the provisions of sub-section 3A.
5. Where any exemption granted under sub-section 1, sub-section 1C, sub-section 2, sub-section 2A or sub-section 2B is cancelled, the amount of accumulations to the credit of every employee to whom such exemption applied, in the provident fund, the Pension Fund or the Insurance Fund of the establishment in which he is employed together with any amount forfeited from the employer's share of contribution to the credit of the employee who leaves the employment before the completion of the full period of service shall be transferred within such time and in such manner as may be specified in the Scheme or the Pension Scheme or the Insurance Scheme to the credit of his account in the Fund or the Pension Fund or the Insurance Fund, as the case may be.
6. Subject to the provisions of sub-section 1C, the employer of an exempted establishment or of an exempted employee of an establishment to which the provisions of the Pension Scheme apply, shall, notwithstanding any exemption granted under sub-section 1 or sub-section 2, pay to the Pension Fund such portion of the employer's contribution to its provident fund within such time and in such manner as may be specified in the Pension Scheme.
- 17A. Transfer of accounts –
- 1. Where an employee employed in an establishment to which this Act applies leaves his employment and obtains re-employment in another establishment to which this Act does not apply, the amount of accumulations to the credit of such employee in the fund, or as the case may be, in the provident fund of the establishment left by him shall be transferred, within such time as may be specified by the Central Government in this behalf, to the credit of his account in the provident fund of the establishment in which he is re-employed, if the employee so desires and the rules in relation to that provident fund permit such transfer.
 - 2. Where an employee employed in an establishment to which this Act does not apply leaves his employment and obtains re-employment in another establishment to which this Act applies, the amount of accumulations to the credit of such employee in the provident fund of the establishment left by him may, if the employee so desires and the rules in relation to such provident fund permit, be transferred to the credit of his account in the Fund or as the case may be, in the provident fund of the establishment in which he is re-employed.

17AA. Act to have effect notwithstanding anything contained in Act 31 of 1956 - The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Life Insurance Corporation Act, 1956 (31 of 1956).

17B. Liability in case of transfer of establishment - Where an employer, in relation to an establishment, transfers that establishment in whole or in part, by sale, gift, lease or licence or in any other manner whatsoever, the employer and the person to whom the establishment is so transferred shall jointly and severally be liable to pay the contribution and other sums due from the employer under any provision of this Act or the Scheme or the Pension Scheme or the Insurance Scheme as the case may be, in respect of the period upto the date of such transfer:

Provided that the liability of the transferee shall be limited to the value of the assets obtained by him by such transfer.

18. Protection of Action taken in good faith - No suit, prosecution or other legal proceeding shall lie against the Central Government, a State Government, the Presiding Officer of a tribunal, any authority referred to in section 7A, an Inspector or any other person for anything which is in good faith done or intended to be done in pursuance of this Act, the Scheme, the Pension Scheme or the Insurance Scheme.

18A. Presiding Officer and other officers to be public servants - The Presiding Officer of a Tribunal, its officers and other employees, the authorities referred to in section 7A and every Inspector shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

19. Delegation of powers - The appropriate Government may direct that any power or authority or jurisdiction exercisable by it under this Act, the Scheme, the Pension Scheme or the Insurance Scheme shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also -

- (a) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification; and
- (b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.

20. Power of Central Government to give directions - The Central Government may, from time to time, give such directions to the Central Board as it may think fit for the efficient administration of this Act and when any such direction is given, the Central Board shall comply with such direction.

21. Power to make rules -

1. The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

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2. Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
 - (a) the salary and allowances and other terms and conditions of service of the Presiding Officer and the employees of a Tribunal;
 - (b) the form and the manner in which, and the time within which, an appeal shall be filed before a Tribunal and the fees payable for filing such appeal;
 - (c) the manner of certifying the copy of the certificate, to be forwarded to the Recovery Officer under sub-section (2) or section 8C; and
 - (d) any other matter which has to be, or may be, prescribed by rules under this Act.
 3. Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
22. Power to remove difficulties –
1. If any difficulty arises in giving effect to the provisions of this Act, as amended by the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Act, 1988, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for the removal of the difficulty: Provided that no such order shall be made after the expiry of a period of three years from the date on which the said Amendment Act receives the assent of the President.
 2. Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

6.3 PAYMENT OF GRATUITY ACT 1972

An Act to provide for a Scheme for the payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:-- Short title, extent, application and commencement.

1. Short title, extent, application and commencement.- (1) This Act may be called the Payment of Gratuity Act, 1972.
 2. it extends to the whole of India: Provided that in so far as it relates to plantations or ports, it shall not extend to the State of Jammu and Kashmir.
 3. It shall apply to--
 - (a) every factory, mine, oilfield, plantation, port and railway company;
 - (b) every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months;
 - (c) such other establishments or class of establishments, in which ten or more employees are employed, or were employed, on any day of the preceding twelve months, as the Central Government may, by notification, specify in this behalf.
- 1*[(3A) A shop or establishment to which this Act has become applicable shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time after it has become so applicable falls below ten.]
4. It shall come into force on such date²* as the Central Government may, by notification, appoint.

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2. Definitions.

2. Definitions.- In this Act, unless the context otherwise requires,--

- (a) "appropriate Government" means,--
 - i. in relation to an establishment--
 - (a) belonging to, or under the control of, the Central Government,
 - (b) having branches in more than one State, -----
-----1. Ins. by Act 26 of 1984, s. 2.
 - (c) of a factory belonging to, or under the control of, the Central Government,
 - (d) of a major port, mine, oilfield or railway company, the Central Government,
 - ii. in any other case, the State Government;
- (b) "completed year of service" means continuous service for one year;
- 1*[(c) "continuous service" means continuous service as defined in section 2A;]
- (d) "controlling authority" means an authority appointed by the appropriate Government under section 3;

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(e) "employee" means any person (other than an apprentice) employed on wages 2*** in any establishment, factory, mine, oilfield, plantation, port, railway company or shop, to do any skilled, semi-skilled, or unskilled, manual, supervisory, technical or clerical work, whether the terms of such employment are express or implied, 3*[and whether or not such person is employed in a managerial or administrative capacity, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity.]

-----1. Subs. by Act 26 of 1984, s. 3. 2. Omitted by Act 34 of 1994, s. 4 (w.e.f. 25-5-1994). 3. Subs. by Act 25 of 1984, s. 2 (w.e.f. 1-7-1984). 525

(f) "Employer" means, in relation to any factory, mine, oilfield, plantation, company or shop--establishment, port, railway

- i. belonging to, or under the control of, the Central Government or a State Government, a person or authority appointed by the appropriate Government for the supervision and control of employees, or where no person or authority has been so appointed, the head of the Ministry or the Department concerned.
- ii. belonging to, or under the control of, any local authority, the person appointed by such authority for the supervision and control of employees or where no person has been so appointed, the chief executive officer of the local authority,
- iii. in any other case, the person, who, or the authority which, has the ultimate control over the affairs of the establishment, factory, mine, oilfield, plantation, port, railway company or shop, and where the said affairs are entrusted to any other person, whether called a manager, managing director or by any other name, such person;

(g) "Factory" has the meaning assigned to it in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948);

(h) "Family", in relation to an employee, shall be deemed to consist of--

- i. In the case of a male employee, himself, his wife, his children, whether married or unmarried, his dependent parents 1*[and the dependent parents of his wife and the widow] and children of his predeceased son, if any,
- ii. In the case of a female employee, herself, her husband, her children, whether married or unmarried, her dependent parents and the dependent parents of her husband and the widow and children of her predeceased son, if any.

-----1. Subs. by Act 22 of 1987, s. 2 (w.e.f. 1-10-1987).

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Explanation.--Where the personal law of an employee permits the adoption by him of a child, any child lawfully adopted by him shall be deemed to be included in his family, and where a child of an employee has been adopted by another person and such adoption is, under the personal law of the person making such adoption, lawful, such child shall be deemed to be excluded from the family of the employee;

(i) "major port" has the meaning assigned to it in clause (8) of section 3 of the Indian Ports Act, 1908 (15 of 1908);

(j) "mine" has the meaning assigned to it in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952 (35 of 1952);

(k) "notification" means a notification published in the Official Gazette;

(l) "oilfield" has the meaning assigned to it in clause (e) of section 3 of the Oilfields (Regulation and Development) Act, 1948 (53 of 1948);

(m) "plantation" has the meaning assigned to it in clause (f) of section 2 of the Plantations Labour Act, 1951 (69 of 1951);

(n) "port" has the meaning assigned to it in clause (4) of section 3 of the Indian Ports Act, 1908 (15 of 1908);

(o) "prescribed" means prescribed by rules made under this Act;

(p) "railway company" has the meaning assigned to it in clause (5) of section 3 of the Indian Railways Act, 1890 (9 of 1890);

(q) "retirement" means termination of the service of an employee otherwise than on superannuation;

1*[(r) "superannuation", in relation to an employee, means the attainment by the employee of such age as is fixed in the contract or conditions of service as the age on the attainment of which the employee shall vacate the employment;]

-----2. Subs. by Act 25 of 1984,
s. 2 (w.e.f. 1-7-1984).

1. Omitted by Act 22 of 1987, s. 2 (w.e.f. 1-10-1987).

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(s) "wages" means all emoluments which are earned by an employee while on duty or on leave in accordance with the terms and conditions of his employment and which are paid or are payable to him in cash and includes dearness allowance but does not include any bonus, commission, house rent allowance, overtime wages and any other allowance.

2A.

Continuous service.

2*["2A. Continuous service.-

For the purposes of this Act,--

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1. An employee shall be said to be in continuous service for a period if he has, for that period, been in uninterrupted service, including service which may be interrupted on account of sickness, accident, leave, absence from duty without leave (not being absence in respect of which an order 3*** treating the absence as break in service has been passed in accordance with the standing orders, rules or regulations governing the employees of the establishment), lay-off, strike or a lock-out or cessation of work not due to any fault of the employee, whether such uninterrupted or interrupted service was rendered before or after the commencement of this Act;
2. Where an employee (not being an employee employed in a seasonal establishment) is not in continuous service within the meaning of clause (1), for any period of one year or six months, he shall be deemed to be in continuous service under the employer--

(a) Or the said period of one year, if the employee during the period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than--

i. One hundred and ninety days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and

ii. Two hundred and forty days, in any other case;

(b) For the said period of six months, if the employee during the period of six calendar months preceding the date with reference to which the calculation is to be made, has actually worked under the employer for not less than--

(c) Ninety-five days, in employed below the ground establishment which works for week; and

the case of an employee in a mine or in an less than six days in a

(ii) one hundred and twenty days, in any other case;

3*[Explanation.--For the purposes of clause (2), the number of days on which an employee has actually worked under an employer shall include the days on which--

i. He has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under the Industrial Disputes Act, 1947 or (14 of 1947), under any other law applicable to the establishment;

ii. He has been on leave with full wages, earned in the previous year;

iii. He has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

iv. In the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.]

(3) where an employee, employed in a seasonal establishment, is not in continuous service within the meaning of clause (1), for any period of one year or six months, he shall be deemed to be in continuous service under the employer for such period if he has actually worked for not less than seventy-five per cent. of the number of days on which the establishment was in operation during such period.]

3.

Controlling authority.

3. Controlling authority.- The appropriate Government may, by notification, appoint any officer to be a controlling authority, who shall be responsible for the administration of this Act and different controlling authorities may be appointed for different areas.

4.

Payment of gratuity.

4. Payment of gratuity.- (1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years.--

- (a) On his superannuation, or
- (b) On his retirement or resignation, or
- (c) On his death or disablement due to accident or disease:

Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement:

4*[Provided further that in the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs, and where any such nominees or heirs is a minor, the share of such minor, shall be deposited with the controlling authority who shall invest the same for the benefit of such minor in such bank or other financial institution, as may be prescribed, until such minor attains majority.]

Explanation.--For the purposes of this section, disablement means such disablement as incapacitates an employee for the work which he was capable of performing before the accident or disease resulting in such disablement.

(2) For every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days' wages based on the rate of wages last drawn by the employee concerned:

Provided that in the case of a piece-rated employee, daily wages shall be computed on the average of the total wages received by him for a period

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-----1. Ins. by Act 26 of 1984,
s. 4.
2. Omitted by Act 22 of 1987 s. 3 (w.e.f. 1-10-1987). 3. Added by s. 3, ibid. (w.e.f. 1-10-1987).

4. Subs. by Act 22 of 1987, s. 4 (w.e.f. - - - -).
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of three months immediately preceding the termination of his employment, and, for this purpose, the wages paid for any overtime work shall not be taken into account: Provided further that in the case of 1*["an employee who is employed in a seasonal establishment and who is not so employed throughout the year"], the employer shall pay the gratuity at the rate of seven days' wages for each season.

2*[Explanation.--In the case of a monthly rated employee, the fifteen days' wages shall be calculated by dividing the monthly rate of wages last drawn by him by twenty-six and multiplying the quotient by fifteen.]

(3) The amount of gratuity payable to an employee shall not exceed 4*[one lakh rupees].

(4) For the purpose of computing the gratuity payable to an employee who is employed, after his disablement, on reduced wages, his wages for the period preceding his disablement shall be taken to be the wages received by him during that period, and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.

(5) Nothing in this section shall affect the right of an employee receive better terms of gratuity under any award or agreement or contract with the employer.

(6) Notwithstanding anything contained in sub-section (1),--

(a) The gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused;

(b) The gratuity payable to an employee 1*[may be wholly or partially forfeited]--

- i. If the services of such employee have been terminated for his riotous or disorderly conduct or any other act violence on his part, or
- ii. If the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.

5* * * * *

4A.

Compulsory insurance.

6*[4A. Compulsory insurance.-

1. (1) With effect from such date as may be notified by the appropriate Government in this behalf, every employer, other than an employer or an establishment belonging to, or under the control of, the Central Government or a State Government, shall, subject to the provisions of sub-section (2), obtain an insurance in the manner prescribed, for his liability for payment towards the gratuity under this Act, from the Life Insurance Corporation of India established under the Life Insurance Corporation of India Act, 1956 (9 of 1956) or any other prescribed insurer:
2. Provided that different dates may be appointed for different establishments or class of establishments or for different areas.
3. (2) The appropriate Government may, subject to such conditions as may be prescribed, exempt every employer who had already established an approved gratuity fund in respect of his employees and who desires to continue such arrangement, and every employer employing five hundred or more persons who establishes an approved gratuity fund in the manner prescribed from the provisions of sub-section (1).
4. (3) For the purpose of effectively implementing the provisions of this section, every employer shall within such time as may be prescribed get his establishment registered with the controlling authority in the prescribed manner and no employer shall be registered under the provisions of this section unless he has taken an insurance referred to in sub-section (1) or has established an approved gratuity fund referred to in sub-section (2).
5. The appropriate Government may, by notification, make rules to give effect to the provisions of this section and such rules may provide for the composition of the Board of Trustees of the approved gratuity fund and for the recovery by the controlling authority of the amount of the gratuity payable to an employee from the Life Insurance Corporation of India or any other insurer with whom an insurance has been taken under sub-section (1), or as the case may be, the Board of Trustees of the approved gratuity fund.
6. Where an employer fails to make any payment by way of premium to the insurance referred to in sub-section (1) or by way of contribution to an approved gratuity fund referred to in sub-section (2), he shall be liable to pay the amount of gratuity due under this Act (including interest, if any, for delayed payments) forthwith to the controlling authority.
7. Whoever contravenes the provisions of sub-section (5) shall be punishable with fine which may extend to ten thousand rupees and in the case of a continuing offence with a further fine which may extend to one thousand rupees for each day during which the offence continues.
8. Explanation.--In this section "approved gratuity fund" shall have the same meaning as in clause (5) of section 2 of the Income-tax Act, 1961 (43 of 1961).]

NOTES

5. Power to exempt.-

7*[(1)] The appropriate Government may, by notification, and subject to such conditions as may be specified in the notification, exempt any establishment, factory, mine, oilfield, plantation, port, railway company or shop to which this Act applies from the operation of the provisions of this Act if, in the opinion of the appropriate Government, the employees in such establishment, factory, mine, oilfield, plantation, port, railway company or shop are in receipt of gratuity or pensionary benefits not less favourable than the benefits conferred under this Act.

8*[(2) The appropriate Government may, by notification and subject to such conditions as may be specified in the notification, exempt any employee or class of employees employed in any establishment, factory, mine, oilfield, plantation, port, railway company or shop to which this Act applies from the operation of the provisions of this Act, if, in the opinion of the appropriate Government, such employee or class of employees are in receipt of gratuity or pensionary benefits not less favourable than the benefits conferred under this Act.]

9*[(3) A notification issued under sub-section (1) or sub-section (2) may be issued retrospectively a date not earlier than the date of commencement of this Act, but no such notification shall be issued so as to prejudicially affect the interests of any person.]

-----1. Subs. by Act 25 of 1984, s. 3 (w.e.f. 1-7-1984).

2. Ins. by Act 22 of 1987, s. 4 (w.e.f. 1-10-1987).

3. Subs. by s. 4 *ibid.*, for "twenty months' wages" (w.e.f. 1-10-1997).

4. Subs. by Act 34 of 199, s. 3, for "fifty thousand" (w.e.f. 24-5-1994).

5. Sub-section (7) Ins. by Act 25 of 1984, s. 3 and Omitted by Act 34 of 1994, s. 3 (w.e.f. 25-5-1994).

6. Ins. by 22 of 1987, s. 5, (w.e.f.). 7. Re-numbered by Act 26 of 1984, s. 5.

8. Ins: by s. 5, *ibid.*

9. Ins. by Act 22 of 1987, s. 6 (w.e.f. 1-10-1987).

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6. Nomination.-

1. Each employee, who has completed one year of service, shall make, within such time, in such form and in such manner, as may be prescribed, nomination for the purpose of the second proviso to sub-section (1) of section 4.
2. An employee may, in his nomination, distribute the amount of gratuity payable to him under this Act amongst more than one nominee.
3. If an employee has a family at the time of making a nomination, the nomination shall be made in favour of one or more members of his family, and any

nomination made by such employee in favour of a person who is not a member of his family shall be void.

4. If at the time of making a nomination the employee has no family, the nomination may be made in favour of any person or persons but if the employee subsequently acquires a family, such nomination shall forthwith become invalid and the employee shall make, within such time as may be prescribed, a fresh nomination in favour of one or more members of his family.
5. A nomination may, subject to the provisions of sub-sections (3) and (4), be modified by an employee at any time, after giving to his employer a written notice in such form and in such manner as may be prescribed, of his intention to do so.
6. If a nominee predeceases the employee, the interest of the nominee shall revert to the employee who shall make a fresh nomination, in the prescribed form, in respect of such interest.
7. Every nomination, fresh nomination or alteration of nomination, as the case may be, shall be sent by the employee to his employer, who shall keep the same in his safe custody.

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7. Determination of the amount of gratuity.

7. Determination of the amount of gratuity.- (

1) A person who is eligible for payment of gratuity under this Act or any person authorised, in writing, to act on his behalf shall send a written application to the employer, within such time and in such form, as may be prescribed, for payment of such gratuity.

(2) As soon as gratuity becomes payable, the employer shall, whether an application referred to in sub-section (1) has been made or not, determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable and also to the controlling authority specifying the amount of gratuity so determined.

1*[(3) The employer shall arrange to pay the amount of gratuity within thirty days from the date it becomes payable to the person to whom the gratuity is payable.

(3A) If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long-term deposits, as that Government may, by notification specify:

Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground.]

-----1. Subs. by Act 22 of 1987,
s. 7 (w.e.f. 1-10-1987).

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(4) (a) If there is any dispute as to the amount of gratuity payable to an employee under this Act or as to the admissibility of any claim of, or in relation to, an employee for payment of gratuity, or as to the person entitled to receive the gratuity, the employer shall deposit with the controlling authority such amount as he admits to be payable by him as gratuity.

2*[(b) Where there is a dispute with regard to any matter or matters specified in clause (a), the employer or employee or any other person raising the dispute may make an application to the controlling authority for deciding the dispute.]

3*[(c) The controlling authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the matter or matters in dispute and if, as a result of such inquiry any amount is found to be payable to the employee, the controlling authority shall direct the employer to pay such amount or, as the case may be, such amount as reduced by the amount already deposited by the employer.]

4*[(d)] The controlling authority shall pay the amount deposited, including the excess amount, if any, deposited by the employer, to the person entitled thereto.

4*[(e)] As soon as may be after a deposit is made under clause (a), the controlling authority shall pay the amount of the deposit--

- i. To the applicant where he is the employee; or
- ii. Where the applicant is not the employee, to the 1*[nominee or, as the case may be, the guardian of such nominee or] heir of the employee if the controlling authority is satisfied that there is no dispute as to the right of the applicant to receive the amount of gratuity.

(5) For the purpose of conducting an inquiry under sub-section (4), the controlling authority shall have the same powers as are vested in a court, while trying a suit, under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:--

- (a) Enforcing the attendance of any person or examining him on oath;
- (b) Requiring the discovery and production of documents;
- (c) Receiving evidence on affidavits;
- (d) Issuing commissions for the examination of witnesses.

(6) Any inquiry under this section shall be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).

-----1. Explanation Omitted by Act 25 of 1984, s. 4 (w.e.f. 1-7-84). 2. Ins. by s. 4, ibid. (w.e.f. 1-7-1984).

3. Subs. by s. 4, ibid. (w.e.f. 1-7-1984). 4. Re-letted by s. 4, ibid. (w.e.f. 1-7-1984).

(7) Any person aggrieved by an order under sub-section (4) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:

Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days:

1*[Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate of the controlling authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under sub-section (4), or deposits with the appellate authority such amount.]

(8) The appropriate Government or the appellate authority, as the case may be, may, after giving the parties to the appeal a reasonable opportunity of being heard, confirm, modify or reverse the decision of the controlling authority.

7A.

Inspectors.²*[7A. Inspectors.-

1. Notification, appoint as many purposes of this Act.
2. The appropriate Government may, by Inspectors, as it deems fit, for the
3. The appropriate Government may, by general or special order, define the area to which the authority of an Inspector so appointed shall extend and where two or more Inspectors are appointed for the same area, also provide by such order, for the distribution or allocation of work to be performed by them under this Act.
4. Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

7B.

Powers of Inspectors.

7B. Powers of Inspectors.-

(1) Subject to any rules made by the appropriate Government in this behalf, an Inspector may, for the purpose of ascertaining whether any of the provisions of this Act or the conditions, if any, of any exemption granted thereunder, have been complied with, exercise all or any of the following powers, namely:--

- (a) Require an employer to furnish such information as he may consider necessary;
- (b) Enter and inspect, at all reasonable hours, with such assistants (if any), being persons in the service of the Government or local or any public authority, as he thinks fit, any premises of or place in any factory, mine,

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oilfield, plantation, port, railway company, shop or other establishment to which this Act, applies, for the purpose of examining any register, record or notice or other document required to be kept or exhibited under this Act or the rules made thereunder, or otherwise kept or exhibited in relation to the employment of any person or the payment of gratuity to the employees, and require the production thereof for inspection;

- (c) Examine with respect to any matter relevant to any of the purposes aforesaid, the employer or any person whom he finds in such premises or place and who, he has reasonable cause to believe, is an employee employed therein;
- (d) Make copies of, or take extracts from, any register, record, notice or other document, as he may consider relevant, and where he has reason to believe that any offence under this Act has been committed by an employer, search and seize with such assistance as he may think fit, such register, record, notice or other document as he may consider relevant in respect of that offence;
- (e) Exercise such other powers as may be prescribed.

1. Any person required to produce any register, record, notice or other document or to give any information by an Inspector under sub-section (1) shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code (45 of 1860).

2. The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of that Code.]

8.

Recovery of gratuity.

8. Recovery of gratuity.-

- 1. If the amount of gratuity payable under this Act is not paid by the employer, within the prescribed time, to the person entitled thereto, the controlling authority shall, on an application made to it in this behalf by the aggrieved person, issue a certificate for that amount to the Collector, who shall recover the same, together with compound interest thereon 1*[at such rate as the Central Government may, by notification, specify], from the date of expiry of the prescribed time, as arrears of land revenue and pay the same to the person entitled thereto:
- 2. 4*[Provided that the controlling authority shall, before issuing a certificate under this section, give the employer a reasonable opportunity of showing cause against the issue of such certificate: